

**CITY OF MIRAMAR  
PROPOSED CITY COMMISSION AGENDA ITEM**

**First Reading Date:** May 20, 2020

**Second Reading Date:** June 17, 2020

**Presenter's Name and Title:** Randy Cross, Director of Human Resources

**Prepared By:** Sheron Harding, Human Resources Manager

**Temp. Ord. Number:** O1745

**Item Description:** SECOND READING of TEMP. ORD. #O1745 AMENDING SECTION 2-151 OF THE CODE OF ORDINANCES OF THE CITY OF MIRAMAR RELATING TO THE LEAGL DEPARTMENT; INCREASING THE CITY ATTORNEY'S AUTHORITY TO SETTLE CLAIMS WITH APPROVAL OF THE CITY MANAGER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. **(Passed 1<sup>st</sup> Reading on 05/20/20)** (Randy Cross, Director of Human Resources).

Consent ☐ Resolution ☐ Ordinance ☒ Quasi-Judicial ☐ Public Hearing ☐

**Instructions for the Office of the City Clerk:**

**Public Notice** – As required by the Sec. \_\_\_\_\_ of the City Code and/or Sec. \_\_\_\_\_, Florida Statutes, public notice for this item was provided as follows: on \_\_\_\_\_ in an \_\_\_\_\_ ad in the \_\_\_\_\_; by the posting the property on \_\_\_\_\_ and/or by sending mailed notice to property owners within \_\_\_\_\_ feet of the property on \_\_\_\_\_ (fill in all that apply)

**Special Voting Requirement** – As required by Sec. \_\_\_\_\_, of the City Code and/or Sec. \_\_\_\_\_, Florida Statutes, approval of this item requires a \_\_\_\_\_ (unanimous, 4/5ths etc.) vote by the City Commission.

**Fiscal Impact:** Yes ☐ No ☒

**REMARKS:** To increase the settlement authority amount for the City Attorney/Risk Management from five thousand dollars (\$5,000) to twenty-five thousand dollars (\$25,000).

**Content:**

- **Agenda Item Memo from the City Manager to City Commission**
- **Ordinance TO1745**
  - **Exhibit A: Ordinance No. 98-6**
- **Attachment(s)**
  - **Attachment 1: Applicable Section of the City Code (Sec. 2-151).**



**CITY OF MIRAMAR  
INTEROFFICE MEMORANDUM**

**TO:** Mayor, Vice Mayor, & City Commissioners

**FROM:** Vernon E. Hargray, City Manager

**BY:** Randy Cross, Human Resources Director

**DATE:** June 11, 2020

**RE:** SECOND READING of Temp. Ord. No. 1745 to increase the settlement authority amount for the City Attorney/Risk Management

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**RECOMMENDATION:** To increase the settlement authority amount for the City Attorney/Risk Management from five thousand dollars (\$5,000) to twenty-five thousand dollars (\$25,000).

**ISSUE:** City Code section 2-151(4) "Duties and Responsibilities of City Attorney" gives the City Attorney the ability to, "settle, subject to approval of the City Manager and without further commission authority, claims against the city not exceeding five thousand dollars (\$5,000), payable from funds maintained for payment of claims within the city's self-insurance program".

The City of Miramar has contracted with a Third-Party Claim Administrator (TPA), Gallagher Bassett Services, Inc. to mitigate and minimize claim cost by various methods, including mediating non-litigated claims for settlements. Five thousand dollars (\$5,000) has been the limit in the City Code since October 1997, when it was increased from two thousand five hundred dollars (\$2,500) to five thousand dollars (\$5,000). The sufficiency of the current amount to settle small claims over the years has diminished due to rising inflation and its impact on the time value of money. This limit has negatively impacted the City's claims cost by increasing the legal cost to settle nuisance claims and it is no longer an adequate amount for Risk Management/City Attorney to effectively settle the City's nuisance and small claims.

**BACKGROUND:** Listed below are the settlement authority limits for Risk Management/City Attorney for comparable Cities in Broward County:

<b>CITY</b>	<b>RISK MANAGEMENT/CITY ATTORNEY SETTLEMENT LIMIT</b>
City of Pembroke Pines	\$25,000
City of Boynton Beach	\$25,000
City of Oakland	\$25,000
City of Tamarac	No Limit – not self-insured
City of Hollywood	\$25,000
City of Hallandale Beach	\$20,000
City of Fort Lauderdale	\$10,000

The table below contains the City's settled claims from 2014 to current:

<b>Settlement Amount</b>	<b>Number of Settlements</b>
\$1.00 to \$4,999	89
\$5,000- \$15,000	31
Greater than \$15,000	27

In discussion with our City Attorney, they have expressed concurrence for the increase in the settlement limit as the current process is time consuming and creates unnecessary legal expenses for the City. The City Attorney also expressed their willingness to prepare and present the Ordinance requesting approval for this change, to City Commission.

Temp. Ord. No. 1745  
5/13/20

**CITY OF MIRAMAR  
MIRAMAR, FLORIDA**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, AMENDING SECTION 2-151 OF THE CODE OF ORDINANCES OF THE CITY OF MIRAMAR RELATING TO THE LEAGL DEPARTMENT; INCREASING THE CITY ATTORNEY'S AUTHORITY TO SETTLE CLAIMS WITH APPROVAL OF THE CITY MANAGER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 2-151 of the Miramar Code currently establishes a procedure whereby the City Attorney, upon approval of the City Manager, may settle claims up to Five Thousand Dollars (\$5,000.00) without the need for a public hearing or Commission approval; and

**WHEREAS**, the City Commission believes that the settlement limit shall be increased to Twenty-Five Thousand Dollars (\$25,000.00) to improve the sufficiency of the amount to settle nuisance and small claims;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:**

**Section 1:** That the forgoing WHEREAS clauses are hereby ratified and incorporated herein.

Ord. No. \_\_\_\_\_

**Section 2:** Section 2-151(c) is hereby amended to read as follows:

(c) Duties and responsibilities of city attorney. The duties of the city attorney shall be to:

- 1) Advise and consult with the mayor, city commission, city manager and other heads of the departments within the city regarding legal matters and to render legal opinions on issues of municipal law as requested by the city administration or the city commission.
- 2) Prepare the city's ordinances and resolutions, at the direction of the city commission, or city manager, and to attend regular and special meetings of the city commission.
- 3) Act as legal advisor to the departments of the city, city manager, and the city commission on matters relating to the city or municipal issues.
- 4) Settle, subject to approval of the city manager and without further commission authority, claims against the city not exceeding ~~five thousand dollars (\$5,000.00)~~ Twenty-five thousand dollars (\$25,000.00), payable from funds maintained for payment of claims within the city's self-insurance program.
- 5) Perform all other legal work assigned by the city manager or the city commission.
- 6) Employ special counsel to the city for specific needs and/or requisite areas of legal expertise with city commission approval.
- 7) Approve as to legal form and sufficiency contracts, deeds, bills of sale and other written instruments to which the city is a party.

**Section 3:** If any clause, section, other part or application of this Ordinance is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Ordinance.

**Section 4:** The provisions of this Ordinance shall become and be a part of the

Temp. Ord. No. 1745  
5/13/20

Code of Ordinance; that sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" may be changed to "Chapter", "Section", "Article", or other appropriate word.

**Section 5:** This Ordinance shall be effective upon adoption and second reading.

**Section 6:** This Ordinance was adopted after a Public Hearing was held upon the subject matter hereof. Notice of hearing was published as required by law, which Public Hearing was held at 7:00 P.M. on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, in the City Commission Room, City Hall, City of Miramar, Florida.

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5/13/20

**PASSED FIRST READING:** \_\_\_\_\_

**PASSED AND ADOPTED ON SECOND READING:** \_\_\_\_\_

\_\_\_\_\_  
Mayor, Wayne M. Messam

\_\_\_\_\_  
Vice Mayor, Maxwell B. Chambers

ATTEST:

\_\_\_\_\_  
City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved  
this ORDINANCE as to form:

\_\_\_\_\_  
City Attorney  
Austin Pamies Norris Weeks Powell PLLC

**Requested by Administration**

Commissioner Winston F. Barnes

Vice Mayor Maxwell B. Chambers

Commissioner Yvette Colbourne

Commissioner Alexandra P. Davis

Mayor Wayne M. Messam

**Voted**

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\_\_\_\_\_

\_\_\_\_\_

Ord. No. \_\_\_\_\_

Temp. Ord. No. 1071  
10/30/97CITY OF MIRAMAR  
MIRAMAR, FLORIDAORDINANCE NO. 98-6

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, AMENDING SECTION 2-151 OF THE CODE OF ORDINANCES OF THE CITY OF MIRAMAR RELATING TO THE LEGAL DEPARTMENT; INCREASING THE CITY ATTORNEY'S AUTHORITY TO SETTLE CLAIMS WITH APPROVAL OF THE CITY MANAGER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 164.106, Florida Statutes provides municipalities with the authority to settle claims brought against them in amounts up to the sum of Five Thousand (\$5,000.00) Dollars without the need for a public hearing; and

WHEREAS, Section 2-151 of the Miramar Code currently establishes a procedure whereby the City Attorney, upon approval of the City Manager, may settle claims up Two Thousand Five Hundred Dollars (\$2,500.00) without the need for a public hearing or Commission approval; and

WHEREAS, the City Commission believes that the settlement limit shall be as permitted by law;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA:

SECTION 1. That the foregoing WHEREAS clauses are hereby ratified and incorporated herein.

SECTION 2. Section 2-151(c) is hereby amended to read as follows:

(c) Duties and responsibilities of city attorney. The duties of the city attorney shall be to:

- (1) Advise and consult with the mayor, city commission, city manager and other heads of the departments within the city regarding legal matters and to render legal opinions on issues of municipal law as requested by the city administration or the city commission.

Ord. No. 98-6  
Temp. Ord. No. 1071  
10/30/97

~~Strike-through~~ indicates  
deletions, underline  
indicates language added



Temp. Ord. No. 1071  
10/30/97

PASSED AND ADOPTED on first reading this 19 day of November, 1997.  
PASSED AND ADOPTED on second reading this 3 day of December 1997.

Vicki Cocceano  
Mayor

ATTEST:

Betty S. Lano  
City Clerk

HEREBY CERTIFY that I have  
approved this ordinance as  
to legal sufficiency.

[Signature]  
City Attorney

[Signature]  
Vice Mayor

Requested by Administration

Comm. James A. Cundiff  
Comm. "Sandy" R. Enos  
Comm. Lori C. Moseley  
Vice Mayor Kevin A. Fernander  
Mayor Vicki Cocceano

Voted

Yes  
Yes  
Yes  
Yes  
Yes

Ord. No. 98-6  
Temp. Ord. No. 1071  
10/30/97

~~Strike through~~ indicates  
deletions, underline  
indicates language added

## DIVISION 3. - LEGAL DEPARTMENT

*Footnotes:*

-- (7) --

**Editor's note—** Section 4 of Ord. No. 91-22, adopted Mar. 4, 1991, renumbered Div. 4 as Div. 3.

Sec. 2-151. - Created; director; duties of director.

- (a) *Created.* A department to be known as the legal department is hereby created.
- (b) *Department head designated.* The director of the legal department is hereby created and designated "city attorney." The city attorney shall be the director and supervisor of the legal department.
- (c) *Duties and responsibilities of city attorney.* The duties of the city attorney shall be to:
  - (1) Advise and consult with the mayor, city commission, city manager and other heads of the departments within the city regarding legal matters and to render legal opinions on issues of municipal law as requested by the city administration or the city commission.
  - (2) Prepare the city's ordinances and resolutions, at the direction of the city commission, or city manager and to attend regular and special meetings of the city commission.
  - (3) Act as legal advisor to the departments of the city, city manager, and the city commission on matters relating to the city or municipal issues.
  - (4) Settle, subject to approval of the city manager and without further commission authority, claims against the city not exceeding five thousand dollars (\$5,000.00), payable from funds maintained for payment of claims within the city's self-insurance program.
  - (5) Perform all other legal work assigned by the city manager or the city commission.
  - (6) Employ special counsel to the city for specific needs and/or requisite areas of legal expertise with city commission approval.
  - (7) Approve as to legal form and sufficiency contracts, deeds, bills of sale and other written instruments to which the city is a party.

(Code 1964, § 2-19; Ord. No. 90-41, § 1, 4-16-90; Ord. No. 91-22, § 4, 3-4-91; Ord. No. 98-6, § 2, 12-3-97)

Secs. 2-152—2-170. - Reserved.