



**CITY OF FORT LAUDERDALE  
City Commission Agenda Memo  
REGULAR MEETING**

**#14-1174**

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**TO:** Honorable Mayor & Members of the  
Fort Lauderdale City Commission

**FROM:** Cynthia A. Everett, City Attorney

**DATE:** September 16, 2014

**TITLE:** Consent Resolution- Payment of Legal Fees incurred by Commissioner Trantalis in defending against complaint filed with the Florida Commission on Ethics in which the Florida Commission on Ethics dismissed the complaint finding no probable cause for any of the allegations

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**Recommendation**

It is recommended that the City Commission consider the adoption of a resolution authorizing payment of legal fees, in the amount of \$780.00 to the law firm of Messer Caparello P.A. These fees were incurred by Commissioner Trantalis in defending against a complaint filed with the Florida Commission on Ethics. The resolution may be approved if a determination is made that the conduct giving rise to the ethics proceeding arose out of or in connection with the performance of the Commissioner's official duties while serving a public purpose.

**Background**

A complaint was filed with the Florida Commission on Ethics against Commissioner Trantalis by William Scherer on November 19, 2013 alleging violations of the State Code of Ethics. The Florida Commission on Ethics subsequently dismissed the complaint against Commissioner Trantalis finding no probable cause regarding the allegations. Commissioner Trantalis abstained from voting on the project at issue to avoid the appearance of any impropriety or conflict.

Commissioner Trantalis retained private counsel to represent him with regard to his ethics complaint and is now seeking payment by the City for such legal costs in the amount of \$780.00.

The City Code, Section 2-42, provides in part:

...The city, to the extent allowed by state law, shall promptly preserve, protect, defend, aid and assist such official and exonerate, indemnify and hold harmless such official from and against any and all expenses, liabilities, claims, demands,

proceedings, damages, losses, charges, advances, disbursements, payments, expenses, costs, including reasonable counsel fees, awards, settlements, judgments, decrees and mandates paid, incurred by or imposed upon such official in all disputes, proceedings, trials and appeals, by reason of such official being or having been a city official, even though he is no longer an official at the time the expenses are incurred or the claims are made against him. The protection guaranteed in this section shall exist during and after the term of office or employment for liabilities incurred during the term of office or employment....

Florida Attorney General Opinions and existing state case law indicate that “if the city commission makes a determination that the ethics proceeding arose out of or in connection with the performance of the officer’s official duties and serves a public purpose, the official is entitled to legal representation at public expense.” (AGO 91-58). The determination of whether it 1) arose out of or in connection with the performance of the Commissioner’s official duties and 2) serves a public purpose, must be made by the City Commission based upon the factual evidence as may be required by the City Commission to make such determination.

If the Commission makes the determination that Commissioner Trantalis’ ethics complaint arose out of or in connection with performance of the Commissioner’s official duties and serves a public purpose, then the Commissioner would be entitled to payment for such costs. The determination as to whether the two criteria have been met must be made by the City Commission.

**Resource Impact**

There is a fiscal impact to the City in the amount of \$780.00. Funds are available in the operating budget as indicated below.

<i>Funds available as of</i>					
ACCOUNT NUMBER	INDEX NAME (Program)	OBJECT CODE/ SUB- OBJECT NAME	AMENDED BUDGET (Object Code)	AVAILABLE BALANCE (Object Code)	PURCHAS E AMOUNT
543-INS010101-5116	Self-Insurance Claims	Non-Operating Expenses/Labor Relations Claims	\$11,405,000.00	\$1,259,358.00	\$780.00
<b>PURCHASE TOTAL ►</b>					\$780.00

Attachment:  
Exhibit 1- Resolution

Prepared by: DJ Williams-Persad, Assistant City Attorney  
Charter Officer: Cynthia A. Everett, City Attorney