

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA ITEM SUMMARY**

=====

<b>Meeting Date:</b> October 16, 2007	<input checked="" type="checkbox"/>	<b>Consent</b>	<input type="checkbox"/>	<b>Regular</b>
	<input type="checkbox"/>	<b>Ordinance</b>	<input type="checkbox"/>	<b>Public</b>
<b>Department</b>			<input type="checkbox"/>	<b>Workshop</b>

By: COUNTY ATTORNEY'S OFFICE

For: \_\_\_\_\_

=====

**I. EXECUTIVE BRIEF**

**Motion and Title:** Staff Recommends Motion to approve payment to attorney Frederick W. Ford, Esq., the sum of \$60,000.00 for attorney's fees and costs relating to the case of Lee Ellen Dascott v. Palm Beach County, Case No. 50 2002 13289AB.

**Summary:** Attorney Ford represented a former Palm Beach County employee, Lee Ellen Dascott, who was terminated by the County in 2002 in a lawsuit filed that year against the County. The employee alleged that the County violated the Sunshine Act, §286.011, Florida Statutes, when it conducted a pre-termination hearing of the employee without advertising the hearing and excluding the employee and her attorney from the County's deliberations at the conclusion of the hearing. The trial court found that the County did not violate the Sunshine Act, and the employee appealed to the Fourth District Court of Appeals, who reversed the trial court on April 21, 2004, holding that the pretrial hearing was a public meeting under the Sunshine Act. The Sunshine Act provides for court awarded attorney's fee and costs to a party who prevails in an action in violation of the Act. Countywide (LSJ)

**Background and Policy Issues:** The Plaintiff, Lee Ellen Dascott, is a former County employee who was terminated in 2002. The Plaintiff filed a lawsuit subsequent to her termination alleging that the County violated the Sunshine Action, §286.011. The trial Court found that the County did not violate the Sunshine Action, however on April 21, 2004, the Fourth District Court of Appeal reversed that decision stating that a pretrial hearing is a public meeting under the Sunshine Act. The employee expended \$1,186.12 in taxable costs and her attorney's fees were \$32,430.00 for the time spent in the trial court and the appellate court. Mr. Ford filed a Motion for Attorney's Fees and Costs, requesting up to a 2.5 multiplier to his attorney's fees pursuant to the law, which, if granted by the court, would result in a court awarded attorney's fees and cost judgment against the County in the amount of \$82,875.49. A negotiated settlement of the attorney's fees and costs to be paid to Mr. Ford has been reached in the amount of \$60,000.00. The County Attorney's Office recommends this settlement to avoid the possibility of the County being order to pay a higher sum as a result of this case.

**Attachments:**

=====

Recommended by: <u>Maureen Culla For Denise Nieman</u>	<u>10/4/07</u>
Department Director	Date

Approved By: <u>N/A</u>	_____
Assistant County Administrator	Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	<u>\$60,000.00</u>	_____	_____	_____
Operating Revenues	_____	_____	_____	_____	_____
Is Item Included In Current Budget?	Yes <u>x</u> No _____				
Budget Account No.:	Fund <u>5010</u>	Agency <u>700</u>	Org. <u>7130</u>	Object <u>4511</u>	
	Reporting Category _____				
<i>NET Fiscal Impact</i>		<i>\$ 60,000</i>			

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

Risk Management Fund reserves

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Administration Comments:**

<p><u><i>JmD</i></u> 10-3-07 OFMB <i>v6</i> <i>9/28</i></p>	<p><u><i>J. J. Powell</i></u> 10/4/07 Contract Administration <i>10/4/07</i></p>
---	--

**B. Legal Sufficiency:**

*Leon St. John*  
Leon St. John  
Sr. Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

**This summary is not to be used as a basis for payment.**