

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: May 17, 2011 [] Consent [X] Regular
[] Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

I. EXECUTIVE BRIEF

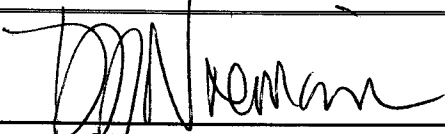
Motion and Title: Staff recommends motion to approve reimbursement of legal fees paid by Paul Beaudreau in the amount of \$1,000 in the defense of allegations arising out of his public employment.

Summary: Paul Beaudreau serves as a Utility Construction Crew Superintendent for the Water Utilities Department. He seeks reimbursement for attorney's fees he paid in defense of allegations against him concerning an investigation by the Office of Inspector General. The request fails to meet the reimbursement criteria established by County policy, which only addresses actions concerning the State Code of Ethics and the Palm Beach County Code of Ethics. The common law, however, allows a government to reimburse a public employee for reasonable attorney's fees incurred when that employee prevails in adversarial proceedings that arise out of the employee's scope of work while serving a public purpose. Under the specific circumstances of this case, it would be appropriate to reimburse the fees Mr. Beaudreau paid for legal services, but only for those paid regarding the State Attorney's investigation of the matter. Countywide (LB)

Background and Justification: Mr. Beaudreau seeks reimbursement for legal representation regarding investigations by the Office of the Inspector General and the State Attorney. The County cannot reimburse fees regarding the Inspector General's investigation because the Inspector General's authority is fact-finding in nature and therefore does not rise to the level of an adversarial proceeding. The common law rule applies only to adversarial proceedings that are civil or criminal in nature. This item recommends reimbursement for legal fees regarding the State Attorney's investigation only. Typically, the common law allowing for reimbursement would apply only when criminal charges were filed. This did not occur here, but as the Attorney General opined in AGO 94-11: "[R]eimbursement of attorney's fees to public officers and employees is not limited exclusively to litigation situations but has been extended to other situations where civil or criminal liability may arise from the performance of official duties while serving a public purpose." In this case, the extraordinary length of time required to complete this particular investigation justifies the request for reimbursement. Mr. Beaudreau was placed on administrative leave July 15, 2010, the Inspector General's Office referred the matter to the State Attorney July 29, 2010, and the matter was not fully completed until April 1, 2011, when the Inspector General's Report of Investigation was filed, finding no violation.

Attachments:

- 1. April 12, 2011 Letter requesting reimbursement
- 2. January 6, 2011 Letter requesting payment from Tara A. Finnigan, P.A., and proof of payment reflecting attorney fee of \$1,000

Recommended by:  5-11-11
County Attorney Date

Approved by: N/A

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	1,000	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	* 1,000	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No _____

Budget Account No.: Fund 0001 Department 760 Unit 7601 Object 3125

Reporting Category _____

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

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

* Request was for \$3,500 reimbursement but only \$1,000 is being reimbursed

<p>_____</p> <p>OPMB 5/11/11</p> <p>5/11/11 SN 5/11/11 SP 5/11/11 VA 5/11/11</p>	<p>_____</p> <p>Contract Development and Control 5/12/11</p>
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B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

April 12, 2011

Denise M. Nieman
County Attorney
301 N. Olive Avenue, Suite 601
West Palm Beach, FL 33401

RE: Reimbursement of Attorney Fees – OIG Case Number 2010-0002

Dear Ms. Nieman,

I am writing to you to request reimbursement of my attorney fees per PPM CW-F-057.

I have been involved in a nine month investigation by the Inspector General's Office. The investigation began on July 15, 2010. I knew I had not done anything wrong and therefore allowed the process to work from July 15, 2010 until November 16, 2010, when I decided to hire a civil attorney to represent me during the process. I had an interview with the State Attorney's office in August, 2010 and then began getting called again by the State Attorney's office in November, 2010 and after that I hired a criminal attorney. At this point, I had not been told what the allegations against me were.

The reason for the delay in requesting the reimbursement was because I didn't even know what the allegations were against me until February, 2011. After that, the attorney prepared a public records request for all of the Inspector General's documents so that I could prepare a defense. The report was finally completed on April 1, 2011 and all of the allegations against me were unsupported. The case number is 2010-0002 and I've attached a copy of the report for your information. I was charged with violations of Merit Rule 7(24), PPM CW-L-008 H(4) and PPM WUD-L-004, during the period of October, 2009 and March, 2010. My title is Utility Construction Crew Superintendent.

I believe that my request meets the criteria set forth in your policy and that my attorney fees should be reimbursed because I was falsely accused and subsequently cleared of all of the allegations, yet was forced to sit home on Administrative Leave during the entire process while all information was being withheld from me during the investigation.

I hired two attorneys during this process. The first attorney is Isidro Garcia, P.A., of Garcia Law Firm, 224 Datura Street, Suite 900, West Palm Beach, FL 33401, 561-832-7732 who represented me against all of the ethical and administrative charges by the Inspector General. The second attorney is Tara A. Finnigan, P.A., 224 Datura Street, Suite 900, West Palm Beach, FL 33401, 835-8115 who represented me during the State Attorney investigations.

I have attached the agreements and invoices for each of these attorneys which total \$3,500. Feel free to call me at 561-307-8095 if there is any other information you need. I would appreciate your favorable consideration of my request for reimbursement of my attorney fees so that I can put that part of this investigation behind me.

Sincerely,



Paul Beaudreau
4017 Colle Drive
Lake Worth, FL 33461

TARA A. FINNIGAN, P.A.
ATTORNEY AT LAW

224 Datura St., Ste. 900, West Palm Beach, FL 33401-5604
Phone (561) 835-8115 law@tfinnigan.com P.O. Box 15599
Fax (561) 835-3891 West Palm Beach, FL 33416

January 6, 2011

Mr. Paul Beaudreau
4017 Colle Drive
Lake Worth, FL 33461

re: State Attorney Investigation

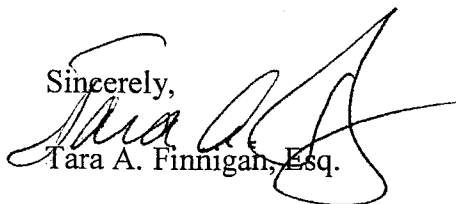
Dear Paul:

Thank you for your attention. The state attorney is not filing any criminal charges against you for any alleged violations connected with your employment. Attached is the communication from the state attorney to that effect.

As for the inspector general's office. There was a very careful review of the powers, rights and obligations the inspector general holds, and frankly, Mr. Davis misstated his power of immunity. The ordinances do not confer upon the IG any such powers. This is a typical ploy initiated by police in an effort to get more information from you and possibly, conflicting information which can and will be used against you. I phoned Mr. Mike Davis' cell phone and left a message advising you are not making any further statements and you rest on your statement with Detective Santini in August 2010.

Sid Garcia, Esq. is in agreement and has been appraised of the situation. Please feel free to contact me with any questions or concerns. I respectfully submit my bill for services rendered.

Sincerely,



Tara A. Finnigan, Esq.

TARA A. FINNIGAN, P.A.

ATTORNEY AT LAW

224 Datura St., Ste. 900, West Palm Beach, FL 33401-5604

Phone (561) 835-8115

law@tfinnigan.com

P.O. Box 15599

Fax (561) 835-3891

West Palm Beach, FL 33416

January 6, 2011

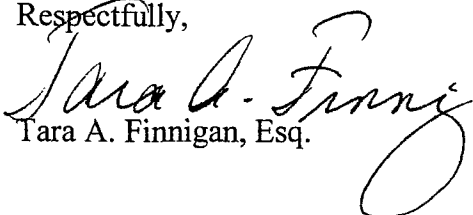
Mr. Paul Beaudreau
4017 Colle Drive
Lake Worth, FL 33461

re: State Attorney Investigation

BILL FOR SERVICES RENDERED

Flat fee for pre-filing representation.....\$1,000.00

Respectfully,


Tara A. Finnigan, Esq.

B Paul or Cynthia Beaudreau
4017 Colle Dr.
Lake Worth, FL 33461-1701



2208
63-613/670
BRANCH 51041

Jun 8, 2011 Date

Pay to the order of Tara Finigan \$ 1000.00

One thousand and 00/100 Dollars



WACHOVIA

Wachovia Bank, a division of Wells Fargo Bank, N.A.

For Cynthia Beaudreau

2208 "0000100000"

JUN - 08

0808

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WACHOVIA
ORLANDO FL 32801
01202011 02PK

PAY TO THE ORDER OF
WACHOVIA BANK
FOR DEPOSIT ONLY
F.A.A. FINANCIAL
SERVING ACCOUNT
200601000007

Tara Finigan

REQUEST 0000477521700000 1000.00
ROLL ECIA 20110120 000003233155824
JOB ECIA F ACCT 0031010122580196
REQUESTOR MD Rizwan Ansari

CYNTHIA M BEAUDREAU
4017 COLLE DRIVE
LAKE WORTH FL 33461