

# CITY OF TALLAHASSEE

## **CITY COMMISSION AGENDA ITEM**

<b>ACTION REQUESTED ON:</b>	January 25, 2012
<b>SUBJECT/TITLE:</b>	Approval of City Commission Policy 103 – Reimbursement and Recovery of Attorney’s Fees and Costs in Ethics Complaint Cases
<b>TARGET ISSUE:</b>	

### **STATEMENT OF ISSUE**

During the City Commission meeting retreat held on November 30, 2011, the Commission expressed a desire to adopt a formal policy to codify and expressly state the City’s practice and procedures regarding the reimbursement and recovery of attorney’s fees and costs involved in the handling of Ethics Commission complaints. An agenda item proposing such a policy was presented at the December 14, 2011, City Commission meeting. The City Commission suggested several changes to the proposed policy that have been incorporated in the attached proposed policy.

### **RECOMMENDED ACTION**

Option 1. Approve Proposed City Commission Policy 103 – Reimbursement and Recovery of Attorney’s Fees and Costs in Ethics Complaint Cases

### **FISCAL IMPACT**

None

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James R. English  
City Attorney

For Information, please contact: James R. English, City Attorney, 891-8554

**ITEM TITLE:** Approval of City Commission Policy 103 – Reimbursement and Recovery of Attorney’s Fees and Costs in Ethics Complaint Cases

### **SUPPLEMENTAL MATERIAL/ISSUE ANALYSIS**

#### **HISTORY/FACTS & ISSUES**

During the City Commission meeting retreat held on November 30, 2011, the City Commission discussed its desire to have a comprehensive written policy to deal with the issue of reimbursement and recovery of attorney’s fees and costs in ethics complaint cases. The City Attorney indicated to the Commission that the City has consistently applied the standards set forth under the Florida case law, Attorney General Opinions, and statutory references in the handling of these matters, and that the concern is the need for a formal written policy.

The common law in Florida, court cases, and Attorney General Opinions clearly establish the right of public officials, officers, and employees to be relieved of the financial burden of defending themselves when ethics complaints arise out of and in connection with the scope of their public employment while acting in their official capacity in serving a public purpose and where the official, officer, and employee successfully defends or prevails in such action. Consistent with those requirements, the City has traditionally paid the reasonable costs and fees associated with these complaints. The proposed formal policy is intended to codify and clarify the existing policy by (1) defining those persons to which the policy applies, i.e. all public officers, officials, and employees, (2) defining the necessary terms, and (3) providing the process for the payment of fees during the course of an ethics complaint up until the point of determination of probable cause. Additionally, the policy provides further recovery of fees paid by the City from officials, officers, and employees found to have violated the Florida Ethics Code and from the complainant in cases where the standards of the Florida Statutes dealing with certain complaints are met.

The attached item incorporates the changes suggested by the City Commission at the meeting of December 14, 2011.

#### **OPTIONS**

1. Approve Proposed City Commission Policy 103 – Reimbursement and Recovery of Attorney’s Fees and Costs in Ethics Complaint Cases.
2. Do Not Approve Proposed City Commission Policy 103 – Reimbursement and Recovery of Attorney’s Fees and Costs.
3. Approve Proposed City Commission Policy 103 – Reimbursement and Recovery of Attorney’s Fees and Costs in Ethics Complaint Cases, with Amendments

#### **ATTACHMENTS/REFERENCES**

Proposed City Commission Policy 103 – Reimbursement and Recovery of Attorney’s Fees and Costs in Ethics Complaint Cases