

MEMORANDUM

TO: Richard Barker, Jr., Chief Financial Officer
FROM: Lysia H. Bowling, City Attorney *LHB*
RE: Attorney Invoice Federal Grand Jury Inquiry
DATE: September 27, 2017

I have reviewed, and hereby forward to you, the attached invoices submitted by Beggs & Lane. The services reflected on the invoices were rendered to Mayor Hayward in connection with a federal grand jury inquiry originated in 2014. Although I did not hold the position of City Attorney when the federal grand jury inquiry was initiated, I am aware that the subject of the grand jury's inquiry pertained to matters within the scope of employment of the Mayor. The U.S. Attorney's office has confirmed that the inquiry has been concluded.

The Florida Supreme Court and the state courts of appeal have long established a common law right of public officials to receive legal representation at public expense to defend themselves against charges arising from the performance of their official duties while serving a public purpose. See, *Thornber v. City of Fort Walton Beach*, 568 So.2d 914 (Fla. 1990), and cases cited therein. It has been noted that:

These cases establish that a municipal corporation or other public body is obligated to furnish or pay fees for counsel to defend a public official subjected to attack either in civil or criminal proceedings where the conduct complained of arises out of or in conjunction with the performance of his official duties. This obligation arises independent of statute, ordinance or charter. It is not subject to the discretion of the keepers of the city coffers.

Lomelo v. City of Sunrise, 423 So.2d 974, 976 (4th DCA 1983).

In view of this established common law right, the City is legally obligated to pay the fees for the legal representation reflected by these invoices. Accordingly, funds which the Mayor has expended should be reimbursed and the unpaid net balance of the invoices should be remitted.