

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: March 19, 2008

Division: County Attorney

Bulk Item: Yes  No

Staff Contact Person: Bob Shillinger, x3470

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**AGENDA ITEM WORDING:** Discussion of issues related to two pending ethics complaints.

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**ITEM BACKGROUND:** Commissioner Spehar and former Planning Commissioner Popham have recently been notified that individuals have filed complaints against them with the Florida Commission on Ethics. Both complaints arise from the working waterfront amendments to the comprehensive plan.

Under a proposed resolution that the Board will be considering separately, the County Attorney, when notified of such complaints, is tasked with seeking direction from the Board on whether her office should provide legal representation to the person named in the complaint. Any such representation by the County Attorney's office would have to be consented to by the BOCC, the County Attorney's primary client.

The County Attorney recommends advising both officials to seek their own counsel subject to the limitations set forth in the proposed resolution. The County Attorney makes this recommendation because staff attorneys will likely represent the County in litigation over the working waterfront amendments if there is an administrative challenge to DCA's final decision on the amendments. Moreover, under Ethics Opinion 77-30 (revised) the Florida Bar has indicated that in-house legal counsel should only represent an individual commissioner or officer before the Ethics Commission where no real or apparent conflict of interest exists. Because ethics complaints have been lodged against two individuals involved in the process with conflicting perspectives on those amendments, there's a reasonable chance that a conflict of may arise.

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**PREVIOUS RELEVANT BOCC ACTION:** None.

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**CONTRACT/AGREEMENT CHANGES:** N/A

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**STAFF RECOMMENDATIONS:**

Advise Commissioner Spehar and former Planning Commissioner Popham that they should each retain their own counsel of their choosing for which the County will reimburse them for their reasonable fees should they be exonerated in the process.

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**TOTAL COST:** None immediately                      **BUDGETED:** Yes  No

**COST TO COUNTY:** To be determined                      **SOURCE OF FUNDS:** N/A

**REVENUE PRODUCING:** Yes  No     **AMOUNT PER MONTH** \_\_\_\_\_ **Year** \_\_\_\_\_

**APPROVED BY:** County Atty     OMB/Purchasing \_\_\_\_\_    Risk Management \_\_\_\_\_

**DOCUMENTATION:** Included \_\_\_\_\_    Not Required

**DISPOSITION:** \_\_\_\_\_                      **AGENDA ITEM #** \_\_\_\_\_