



Cover Memorandum/Staff Report

File #: 26-0721

Agenda Date: 6/9/2026

Item #: 6.B.

TO: Mayor and Commissioners
FROM: Lynn Gelin, City Attorney
DATE: June 9, 2026

RATIFICATION AND INDEMNIFICATION OF CARLOS PENAGOS IN THE MATTER OF CINDY FALCO-DI CORRADO VS. CITY OF DELRAY BEACH, ET AL

Recommended Action:

Motion to ratify the actions of and indemnify Police Officer Carlos Penagos in the matter of *Cindy Falco-Di Corrado vs. City of Delray Beach, et al*, pursuant to Section 31.17 of the Delray Beach Code of Ordinances.

Background:

On May 19, 2026, Cindy Falco-Di Corrado filed a Complaint against the City of Delray Beach and Officer Carlos Penagos. Pursuant to Section 31.16, Delray Beach Code of Ordinances, City officials and employees, with respect to any claim or cause of action arising out of or related to the performance of their public duties, are entitled to representation or defense without charge. "City officials and Employees" are defined as the mayor, commissioners, all appointed officers of the City and all administrative personnel and employees of the City. Accordingly, Officer Penagos falls under this definition.

Section 31.17, Indemnification, provides, "City officials or employees who are personally liable for the payment of any claims arising out of a civil action, settlement or judgment, or the expenses, costs and awards of attorney's fees arising therefrom, shall be entitled to indemnification from the City (except to the extent the City's insurance coverage provides payment) where the claim resulted from activities: (1) which were done in good faith; (2) in which the City has an interest; (3) which were within the course and scope of employment or in the course of performance of public duties of the persons so acting; and (4) were not willful, wanton or malicious." While subsection (B) states that an ultra vires act (an act outside the scope of authority or employment done in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property in the course of the performance of public duties) is not approved and the City is not bound or obligated by such an act, the Commission may ratify such action or actions and choose to indemnify an official or employee by affirmative vote of at least 3 City Commissioners.