



CASE CLOSED

Date: 2-16-16

Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Robert Steinback

Case PI15-045	Case Name: North Bay Village CEB	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s): Anonymous	Subject(s): Mayor Connie Leon-Kreps and unknown Community Enhancement Board member(s)	September 28, 2015	

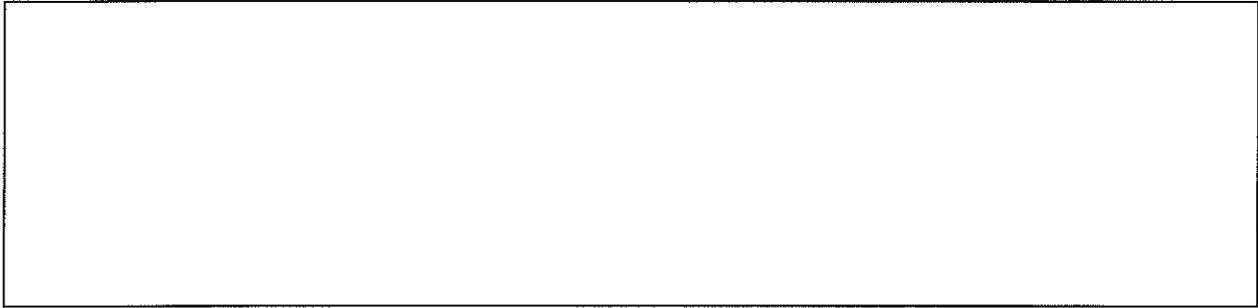
Allegation(s):

Anonymous complainant alleges that the Mayor of North Bay Village, Connie Leon-Kreps (Leon-Kreps), met with multiple members of the North Bay Village Community Enhancement Board (CEB) and discussed village business without properly informing and inviting the public, or keeping minutes, in violation of the State's Sunshine Law.

Relevant Ordinances:

Complainant alleges a violation of F.S. 286.011 (1), which states in relevant art: *All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution [...] at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings; and,*

(2) *The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection.*



Investigation:

Interviews

Robert Switkes (Switkes), Village Attorney for North Bay Village, on Thursday October 15, 2015, by telephone.

Switkes said he was only passing on to COE a complaint from someone who wished to remain anonymous but wanted to allege that Leon-Kreps met with members of the C E B without meeting public notice requirements, inviting the public or taking minutes in violation of the Sunshine Law.

Switkes said the allegation is that the meeting took place at the home of one of the Board members, and explicitly did not take place at the Mayor's house. Switkes did not say which member's house was the venue, which Board members allegedly attended, nor when the alleged meeting took place.

As background, Switkes said some Village council members – presumably, meaning the Mayor – have complained that the CEB is not being consulted on matters when they should be. Apparently, the factions involved here are the Mayor and the CEB versus the rest of the Village Council and the Village Manager. The alleged meeting may have been a strategy session to assess how to get the CEB involved once again in the Village's decision-making process.

Richard Chervony (Chervony), North Bay Village Council Member, by telephone November 16, 2015.

Chervony said he was not the one who made the Ethics complaint, although he has made other complaints in the past.

Chervony said he is friends with the former chair of the CEB, Andreana Jackson (Jackson), who quit the board because “she was being harassed by a couple of members.” He said, “When she would not give in to what members were stating, she’d get calls from the Mayor.”

Chervony said he believed the meeting took place at a home of a friend of the Mayor, Sissy Shute (Shute). Shute lives in Bay Terrace and her husband is on the Planning and Zoning Board. Chervony said he believes all or most of the CEB members, except for Jackson, attended. He said he believed the meeting was held around September some time. Jackson was still chair and was invited, but did not go.

Chervony said that following this meeting, a properly noticed meeting [of the CEB] was called. Shute, the Mayor and Kevin Vericker, a local blogger, attended. The meeting was to increase pressure for the firing of the Village Manager, Frank Rollason. Chervony said he went to this meeting to make sure that the Mayor couldn’t address the board [due to the presence of two Commission members]; although he said at least once she was “mouthing” instructions to board members.

Chervony said Jackson was invited to the alleged illegal meeting but did not go.

Chervony said the division in the town started four years ago when he was first elected. He said he was always on the short end of 4-1 votes. But over time, the mayor has alienated many, so that the commission now votes 3-1 with the Mayor in the minority (one council member had just resigned as of the date of this conversation). He said the Mayor’s aim has been to fire Rollason, whom she originally hired, but she no longer has the votes to do it.

Chervony said the Mayor and CEB are trying to find any little thing to blame on Rollason.

Andreana Jackson – former chairperson of the CEB. Met in person November 18, 2015.

Jackson said she felt she was being harassed by the Mayor. She believes the Mayor is allied with CEB member Ana Watson. Jackson said the Mayor “wants to get rid of the City Manager, [and is] using the CEB to accomplish this.”

Jackson said the Mayor called her to say that resident Sissy Shute was setting up a meeting at her house. All weekend, Jackson said the Mayor and Watson “kept calling” her. This was on the weekend that the JFK statue was unveiled in town. Frank Rollason [the City Manager] invited the CEB [to the bust unveiling], but she was asked, “Why are you kissing the Manager’s ass?”

Jackson said Watson asked her if she is going to Shute’s on Sunday. Jackson said Leon-Kreps

called to ask, "You're not going?" Jackson felt she was being harassed. "The next day, I resigned."

Jackson said it was not uncommon for the CEB members to just get together and discuss town business, sometimes right after official meetings, but she did not offer many specifics. She mentioned a July 31 noticed meeting... she said she had e-mails discussing how they were going to run the meeting. They went through the entire meeting about what would be addressed by Frank. [The e-mails Jackson ultimately provided did not provide clear evidence that an illegal meeting was anticipated or attempted, or had occurred.]

At first, Jackson said, the Mayor began to talk to the board to tell them what to bring up... she said this had been going on for a long time.

Jackson mentioned a night at the Sabor Restaurant after a Village Commission meeting. The Mayor was there with Dora and Ana. She remembers the night because it was the same night a girl was arrested for dancing on patrons' cars.

Jackson later identified the weekend in question in this complaint as that of August 28, a Friday, and that the meeting at Shute's would have been Sunday, August 30th. Jackson was invited but did not attend.

Sissy Shute, resident and political gadfly, by telephone, January 13, 2016

Shute said she could not recall from memory what happened on the reported date of the meeting, believed to be August 30, 2015. She said she would check her calendar to see what, if anything had transpired that day regarding the CEB.

Shute reiterated that she is only a volunteer and not a formal participant in city affairs.

Shute said she did have a memory of a CEB issue at that time. Shute spoke of an issue about whether the City Manager should address the CEB members directly regarding whether a particular issue belongs on the CEB agenda, or whether he should deal only with the CEB chair. This does not appear to be the same issue as that mentioned in this complaint.

About an hour after the first call, Shute called back to say that she did remember a Sunday, although she wasn't sure exactly which Sunday, when Leon-Kreps did visit with her and a neighbor, Bud Farrey (Farrey), a businessman who is also a P&Z Board member.

Shute said Leon-Kreps is a neighbor. Shute said, "The Mayor and I and one of the neighbors on my street met at my house. I remember what was discussed: The Mayor is not a numbers person, and needed help with the budget. She thought there was unnecessary spending and wastefulness in our city with respect to the budget. It was the Mayor, me and Bud Farrey."

"[The Mayor] was turning to him for help on the budget. I recall that in that meeting he was going to look over the budget and they took over from there."

Shute said that regarding the City Manager, “There was some question about how he spent this money. His wastefulness, some questioned.”

Shute said nobody from the CEB at all attended. “I can tell you that the CEB people really have their issues. The chair is an attorney.” She elaborated saying some members have issues with the City Manager.

Shute said she remembered because “I don’t have meetings on Sundays.” She said that she also recalled that “When I talked to Bud Farrey, he was specific [that I] make sure that the Sunshine Law is abided by – I remember asking the Mayor before we even met. She said, ‘Absolutely this is acceptable.’”

Bud Farrey, Planning and Zoning Board member in North Bay Village, and a business owner, by telephone, January 14, 2016.

Farrey said he is not on the CEB and doesn’t pay much attention to that board. .

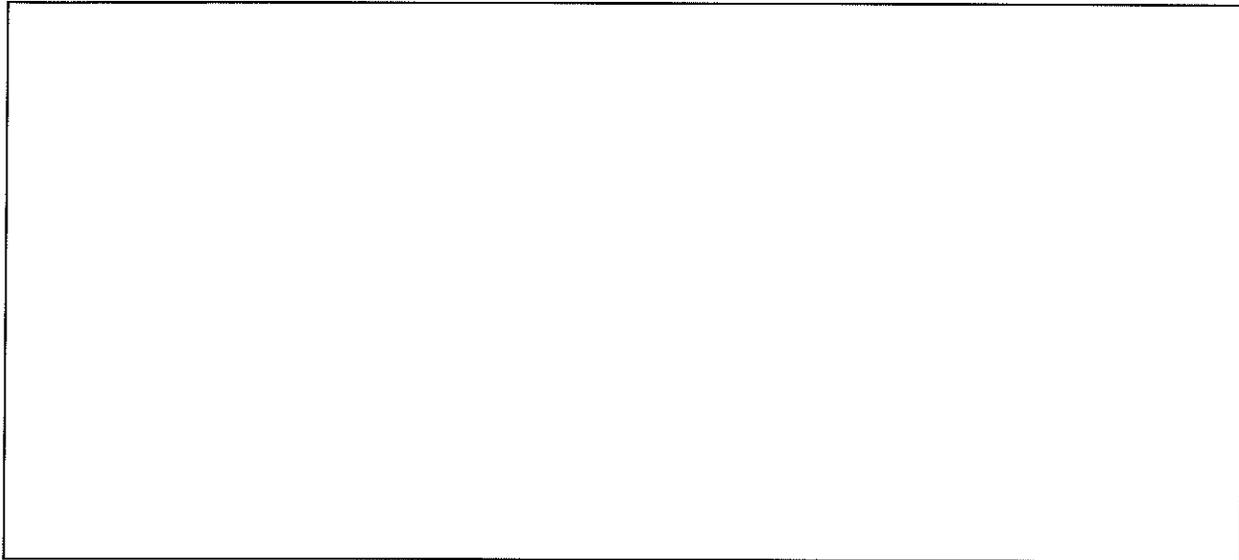
Farrey acknowledged meeting with the Mayor and Shute regarding issues about a budget hearing that was coming up, so he “went over and visited with the Mayor. I got the information, and took it home and studied it.”

Farrey said a couple of days later, he met with the Mayor again, he believes the night before the hearing, and offered what guidance he could, but that he hadn’t had enough time to really scrutinize the budget.

Farrey said only Leon-Kreps and Shute were present. He also said that he asked the Mayor before meeting with her that she be certain nothing they did violated the Sunshine Law, and was assured by Leon-Kreps that they were OK.

Farrey said his impression of the CEB was that it constantly wanted funding for pet projects for which there was no money, and that “they get ticked off when they see money spent elsewhere.”

He said “Connie is very careful about the Sunshine Law.” He referenced a meeting, which he believes was in November which Leon-Kreps and fellow Council member Richard Chervony attended regarding the Air B&B issue (spot rentals of private residences) that took place at a resident’s home. Farrey said both attended but repeated several times that they could not speak or comment because of the Sunshine Law.



Document/Audio/Video Review:

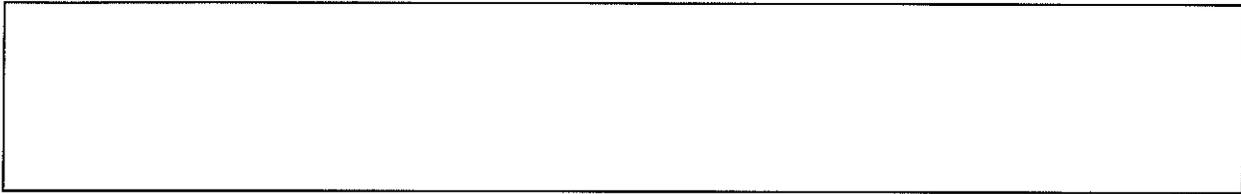
- Copies of certain e-mails to and from Andreana Jackson

Analysis

Given that the complainant in this case was anonymous, the investigator had no opportunity to plumb the original source for more details regarding the relatively vague allegation. The investigator was unable to establish even that members of the same board met outside of the public eye, let alone that those members discussed Village business regarding which some Village or Board action was anticipated.

On August 28th, 2015, Shute sent an e-mail to about two dozen “neighbors” expressing her concern that “The entire CEB might resign. This is due to their problems with Frank Rollason.” She solicited “help in this area.” Though the e-mail apparently addresses the subject matter mentioned in this complaint, it makes no reference to a non-publicized meeting of the CEB either past or anticipated. The distribution list of the e-mail does not appear to include any CEB members.

Witness Jackson credibly suggested that she had been party to informal gatherings of the CEB after public meetings on certain other occasions while she was a member, but could not provide sufficient evidence or leads to corroborate this in particular instances. While the Sunshine Law does not prohibit social gatherings of same-board members if they do not discuss City business, Village board members should be advised to reduce any appearance of impropriety by avoiding such exercises, particularly in obvious proximity to public meetings.



Conclusion(s):

After discussion with the Ethics Commission Advocate it was determined that there is insufficient evidence to sustain any ethics violation in this matter and the anonymous allegations were so vague as to not warrant a referral to the State Attorney's Office.

(Signature)

Robert Steinback, COE Investigator

Approved by:

Martha Perez, Staff Attorney

Joseph Centorino, Executive Director