



**Miami-Dade Commission on Ethics & Public Trust**

**Investigative Report**

**Investigator:** Karl Ross

<b>Case:</b> PI18-042	<b>Case Name:</b> NBV Sunshine Issue	<b><u>Date Open:</u></b>	<b><u>Date Closed:</u></b>
<b>Complainant(s):</b> North Bay Village Mayor Connie Leon- Kreps	<b>Subject(s):</b> North Bay Village Clerk Yvonne Hamilton	August 24, 2018	<b>CASE CLOSED</b> Date: 9/14/18

**Allegation(s):**

It was brought to the attention of COE that North Bay Village Clerk Yvonne Hamilton may have improperly barred Mayor Connie Leo-Kreps and other elected officials from attending an Aug. 23, 2018, budget workshop between the interim Village Manager and residents.

Mayor Leon-Kreps said the Clerk cited Sunshine Law concerns as grounds for keeping elected officials out of the meeting at the Village Chambers, but said she felt that she was entitled to attend so long as she did not actively participate in the budget discussion.

**Relevant Ordinances:**

Florida Statute 286.011, titled *Public meetings and records; public inspection; criminal and civil penalties* — provides that: “(1) 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, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, 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.”

The Miami-Dade County Citizens' Bil of Rights, in subsection (A)(2), titled *Truth in Government*, states that: "No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public."

## **Investigation:**

### ***Interviews***

Connie Leon-Kreps, Mayor  
North Bay Village, FL  
Phone: (786) 877-1163  
Aug. 29, 2018

Mayor Leon-Kreps advised that since she was first elected in 2010 she has made a point of attending all Village workshops. "I just sit in the back quietly and do nothing," she said.

However, when she arrived at the Village Chambers for the August 23 budget workshop, she said she ran into Comm. Jose Alvarez, and that he told her he had been instructed by police not to enter the chambers and that police said they were acting on orders from the Village Clerk.

Mayor Leon-Kreps said she then contacted Village Attorney Norman Powell, and told him what was happening. She said Powell told her that, in his opinion, it was okay for elected officials to attend so long as they did not talk to each other at the workshop.

Mayor Leon-Kreps said she then had the interim Village Manager Lewis Velken talk to Powell, but that after speaking with Powell, he still refused to allow them entry.

Asked what could account for the decision not to allow elected officials to attend the workshop, the mayor said she had no explanation "I don't understand because I'm a resident also ... My rights as a resident weren't taken away after I became mayor."

"The excuse she (Hamilton) used was a Sunshine violation. I've been to many workshops just to listen. I have historically attended all workshops ... What are they hiding?"

In a follow-up conversation on August 29, the Mayor advised as follows:

She said that after Clerk Hamilton got off the phone with the Village Attorney that she did not offer to let the elected officials attend the workshop. "She just walked back into the room. It was defiance. She made a decision (not to let elected officials attend) and she was going to stick to it."

Asked what if anything Clerk Hamilton told her following the conversation with Powell, Mayor Leon-Kreps said, "Nothing .. She walked by me and Comm. Alvarez and proceeded to go in the room, and the next day she sent an email apologizing." The mayor said she replied to the Clerk, "I don't understand. If there was no mal-intent, Why didn't you correct it and let us

in?" She said she contacted the Village Attorney at about 6:30 p.m. after police told her she could not enter the chambers and that they were acting on the Clerk's orders.

Norman Powell, Village Attorney

North Bay Village, FL

Phones: office (786) 275-6923, cell (786) 355-4500

Aug. 29, 2018

Mr. Powell said he received a text message from Mayor Leon-Kreps and immediately contacted her. He said she explained she was being prevented from entering the budget workshop at the Clerk's instruction, and he said: "That's news to me ..." He said he couldn't understand why Clerk Hamilton would have done this on her own accord without at least seeking an advisory opinion from him or informing the elected officials of her decision.

Mr. Powell said that he then spoke to the interim Manager and that Mr. Velken told him it was the Clerk's decision to prevent the elected officials from attending. "I said, 'Let me speak to the manager to find out who would have instructed the police officers to do that,' and he said it was the Clerk .... I asked to speak to Ms. Hamilton, and she basically said 'It's going to be an item that may come up on the agenda in the future,' and I said, 'I understand that ... but that if they just sit in the meeting and keep to themselves, there's no issue ...'"

Mr. Powell said he told Clerk Hamilton that he wished she would have talked to him prior to making the decision to bar the elected officials from attending the workshop. "I said, 'These are the people we work for, we can't just embarrass them.' I said, 'Next time you should seek an advisory opinion.'" He said he felt it was a poor judgement, but not mal-intended.

Mr. Powell said that conversation occurred 10 to 15 minutes before the workshop was scheduled to start. He said that in a subsequent conversation with Mayor Leon-Kreps he recommended she not attend the workshop since Sunshine issues had been raised.

Jose Alvarez, Village Commissioner

North Bay Village, FL

Phone: (305) 632-9506

Aug. 29, 2018

Comm. Alvarez said he spoke briefly with Clerk Hamilton when he arrived at Village Hall, and that she explained to him elected officials could not attend because the meeting had not been advertised. He said he wasn't told by the police that he couldn't come in. He said that he saw Mayor Leon-Kreps a short time later and told her what happened. He said he didn't stay and observe what happened subsequent to that. "I was only there a couple of minutes," he said.

Lewis Velken, interim Village Manager

North Bay Village, FL

Phone: (305) 756-7171, x. 21

Aug. 29, 2018

Mr. Velken stated that he had been interim manager for just several weeks as of the time of the budget workshop. He said that he was not aware that the Clerk had decided to restrict access to elected officials until after the Mayor and Comm. Alvarez arrived and it became an issue.

Velken, who previously served as police chief for the Village, said Clerk Hamilton told him at that time that "She was concerned about a Sunshine Law violation if she allowed them to come in (the chambers). She did instruct the officers not to allow them to attend."

Mr. Velken said that he did speak to the Village Attorney after the Mayor spoke to him and that he recalled using the Mayor's phone. "I did speak to him and he had an opinion contrary to that of the Clerk. He felt there was no violation and that they should be allowed to attend."

He said Village Attorney Powell then asked to speak to the Clerk and that he called Powell back on his phone and gave it to Clerk Hamilton. He said she did have a conversation with Mr. Powell, but that he does not recall if she said anything to the elected officials afterwards. "I was focused on the workshop. I don't recall if she communicated with them ..."

Asked about the clerk's actions and whether she might have any reason to restrict access, he said: "I think she had sincere concerns. I think she was just trying to play it safe."

Yvonne Hamilton, Village Clerk  
North Bay Village, FL  
Sept. 7, 2018

Clerk Hamilton appeared at COE for a voluntary interview on the above date, and was advised as to the preliminary inquiry into her handling of the August 23 budget workshop. Ms. Hamilton has worked for the Village for 29 years – the past 16 as village clerk.

Ms. Hamilton stated that she only became aware of the workshop about two days prior to the scheduled event. She said that this short notice did not provide her with enough time to advertise the meeting in a newspaper, as is normally required for a public meeting. She said it is her normal practice to advertise all meetings, even workshops.

Ms. Hamilton said that the interim manager, who was new at the job, did not notify her about the workshop in a timely manner and that she "happened to see a flyer." She said that because of recent allegations of multiple improprieties, she felt the best course of action was to restrict access of elected officials to the workshop as a precaution against potential Sunshine Law violations. She said she was acting in an abundance of caution.

Ms. Hamilton said she had nothing to hide and that she was not seeking to embarrass or upset elected officials. She said she felt she could have handled the matter better, stating: "That's what I accept – that it was poorly handled. It could have been better handled."

Ms. Hamilton said she recalled seeing the mayor outside the meeting chamber, and that she

told the manager and that he went out to speak with her. She said that when Manager Velken returned, he called City Attorney Powell and they discussed the matter. She said that Powell shared his opinion with her that elected officials could attend the workshop, but that he did not explicitly instruct her to open the meeting to them at that time. She said she felt it was best to proceed as planned "in an abundance of caution" and to avoid legal issues.

Ms. Hamilton said she did not discuss the matter with the mayor afterwards, but that she did send the mayor an email apologizing later that evening (see file). The clerk said that a flurry of recent ethics complaints has created a lot of tension among Village employees.

***Document/Audio/Video Review:***

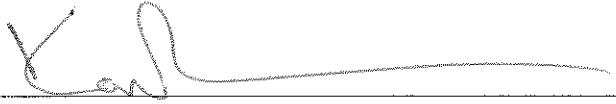
A copy of meeting notices were obtained from Clerk Hamilton for the August 23 budget workshop, including a copy of a flyer, a notice on the Facebook page, and a notice on the City's website and meeting calendar. A copy of the manager's 9-page presentation was also obtained from the clerk. The above documents were added to the file.

A copy of an email exchange between Mayor Leon-Kreps and Clerk Hamilton was reviewed, and added to the file. The clerk apologizes to the mayor in the initial email at 7:29 on the night of the workshop, concluding by saying: "We apologize for the way the matter was handled." The mayor responded the following day with a series of eight questions.

Mayor Leon-Kreps copied the manager, the city attorney, and other Village commissioners on the email along with the Miami-Dade ethics commission. The emails were added to the file.

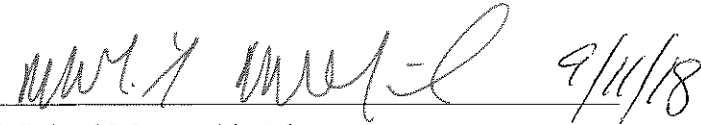
**Conclusion(s):**

After discussion with the Ethics Advocate it was determined that there is no violation of any provision of the Conflict of Interest and Code of Ethics ordinance. This report was also reviewed by ASA Tim Vander-Giesen of the Miami-Dade County State Attorney's Office who advised that there was no indication of a violation of any Florida Statutes. Accordingly, this matter is closed with no further action.



Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



Jose Arrojo, Executive Director