



**CLOSE-OUT MEMO**  
**Criminal Investigation**  
**Public Corruption Unit**

A.S.A.: Isis Perez

INVESTIGATION #: 64-18-24

SIGNATURE: \_\_\_\_\_

DATE: March 26, 2019

REVIEWED BY: \_\_\_\_\_

DATE: 3-27-19

Tim VanderGiesen, Division Chief, PCU

SUBJECT(S): Mayra Peña Lindsay

EMPLOYMENT: Former Mayor of Key Biscayne

INVESTIGATOR: Karl Ross

INTERNAL AFFAIRS

AGENCY: M-D COE

INVESTIGATOR:

PHONE:

AGENCY:

PHONE:

**CONCLUSION**

CHARGES FILED

COURT CASE NUMBER:

**CRIME**

**STATUTE**

**DEGREE**

OTHER:

The Village of Key Biscayne, clerk announced a public meeting for March 1, 2018. The reason for the meeting was announced as a meeting to discuss the "Pension". Before the meeting was convened, a member of the public who was at City Hall to attend the announced public meeting was asked to leave by Mayor Lindsay.

Councilmembers Katie Petros and Luis de la Cruz who attended the meeting, Donald Elisberg and the Village Attorney, Stephen Helfman, gave statements. Mayor Lindsay voluntarily came to the Office of the State Attorney with her lawyer and gave a statement.



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The investigation revealed that a "Sunshine" meeting was announced and scheduled for March 1, 2018. The subject of the meeting was noted to discuss the "Pension". The Council members, the Mayor and Mr. Helfman all stated that there had been on going pension negotiations. Katie Petros and Luis de la Cruz, who attended the meeting, stated that the meeting was to discuss hiring an outside consultant to assist them with the documents that they were to discuss during the pension negotiations. Mayor Lindsay stated it was going to be about the sustentative material that they needed to review to make determinations or try to negotiate their Collective Bargaining Negotiations that had been ongoing for over a year.

Mayor Lindsay stated she became concerned when she realized that the meeting was to discuss the pension negotiations and they had noticed it as a public "Sunshine" meeting. In her own words, "the way I interpreted from what Katie raised was about our pension negotiations and a document that we had gotten, which I thought was going to be the subject of our next pension closed shade session to discuss the nine scenarios. So, it was this confidential actuarial document".

Mayor Lindsay was informed that Mr. Elisberg, was in attendance. According to Mayor Lindsay, she told Mr. Elisburg that she would have to consult with Stephen Helfman whether the meeting had been properly noticed. The issue was whether a member of the public could be in attendance during what she considered should be an executive meeting, commonly known as a "shade meeting" when pension negotiations are being discussed. Pursuant to Florida Statute pension negotiations, employee bargaining negotiations are an exception to the Sunshine

According to Mayor Lindsay and Mr. Helfman, Mayor Lindsay did call Mr. Helfman. The Mayor states she told Mr. Helfman that they were going to be discussing the pension and they had noticed it as a "Sunshine" meeting. According to the Mayor, Mr. Helfman told her that they had noticed it as a "Sunshine" meeting and a member of the public should be allowed. If she did not want the member of the Public there because she thought it was an executive meeting, they should cancel the meeting.

The Mayor states she went back to the conference room and informed the Councilmembers in attendance and Mr. Elisberg that she had consulted with Mr. Helfman and he had advised the discussions should not be had in the Public.

All the people in attendance stated that Mr. Elisberg then left the meeting. Ms. Petros and Mr. de la Cruz stated they then had a brief meeting and discussed the hiring of a consultant to assist them with the actuarial documents that the council had been provided.

Mr. Helfman stated that Mayor Lindsay did call him and told him that they were going to have a meeting and she was concerned it was an "executive" meeting. Mr. Helfman was clear that he told her that if it was noticed as a "Sunshine" meeting the public should be allowed to attend. He said that a Sunshine meeting, once advertised, should not be closed. He said that if the Mayor wanted to discuss the contract talks in an "Executive" session or "shade" meeting, that she should cancel the Sunshine meeting and have it re-advertised as an executive session.

Mayor Lindsay answered all the questions asked of her by this Assistant and the Investigator. She stated she should have cancelled the meeting as advised by Counsel. She stated that she was very concerned that they had made an error in announcing a "Sunshine" meeting when it was an "Executive" meeting which she knew that pension negotiations were "Executive" meetings and should not be discussed in the public.



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She stated that she got into public office to be involved in her community, by being open and transparent. She felt that although the discussion had was brief and not consequential, she should have just cancelled the meeting as advised.

The Mayor was contrite. Mayor Lindsay has been term limited out. The Mayor, on her own accord, took a Florida Ethics Sunshine Law and Public Records course.

Based on the totality of the circumstances and Lindsay's cooperation and candor, this matter is being closed without filing of charges.

This investigation is now closed.



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**ORIGINATION MEMO**  
**CRIMINAL INVESTIGATION**  
**Public Corruption Unit**

A.S.A.: Isis Perez

INVESTIGATION #: 64-18-24

SIGNATURE: \_\_\_\_\_

DATE: July 2, 2018

REVIEWED BY: \_\_\_\_\_

DATE: 12-13-18

Tim VanderGiesen, Division Chief, PCU

SUBJECT(S): Mayra Peña Lindsay

EMPLOYMENT: Mayor of Key Biscayne

INVESTIGATOR: Karl Ross  
AGENCY: M-D COE  
COMPLAINANT:  
ADDRESS:  
PHONE:

INTERNAL AFFAIRS INVESTIGATOR:  
AGENCY:  
PHONE:

**ALLEGATION**

<b>CRIME</b>	<b>STATUTE</b>	<b>DEGREE</b>
Violation of the Sunshine Law	286.011	Second degree Misdemeanor

A public meeting was announced for March 1, 2018. The reason for the meeting was announced as a meeting to discuss the "Pension". Before the meeting was convened, a member of the public who was at City Hall to attend the announced public meeting was asked to leave by Mayor Lindsay. After his departure, a meeting was held. In attendance were Mayor Lindsay and two other council members.



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