

# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 12-281 (Executive Order of Suspension)

**WHEREAS**, Linda Johnson is presently serving as a member of the City Commission and Vice Mayor of the City of South Bay, Florida; and

**WHEREAS**, on December 13, 2012, the State Attorney for the Fifteenth Judicial Circuit charged Linda Johnson by information with public-meeting violation, as prohibited by section 286.011(3)(b), Florida Statutes; and

**WHEREAS**, a violation of section 286.011(3)(b), constitutes a misdemeanor of the second degree and is a misdemeanor related to the duties of Linda Johnson's office; and

**WHEREAS**, section 112.51(2), Florida Statutes, provides that the Governor may suspend from office any elected municipal officer who is arrested for a misdemeanor related to the duties of office, or is informed against for the commission of a misdemeanor; and

**WHEREAS**, it is in the best interests of the residents of the City of South Bay, and the citizens of the State of Florida, that Linda Johnson be immediately suspended from the public office which she now holds, upon the grounds set forth in this executive order;

**NOW, THEREFORE, I, RICK SCOTT**, Governor of Florida, pursuant to section 112.51, Florida Statutes, find as follows:

A. Linda Johnson is, and at all times material was, a member of City Commission and Vice Mayor of the City of South Bay, Florida.

B. The office of City Commission and Vice Mayor of the City of South Bay, Florida, is within the purview of the suspension powers of the Governor, pursuant to section 112.51, Florida Statutes.

FILED  
2012 DEC 21 PM 3:46  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

C. The attached probable cause affidavit and information, which are incorporated as if fully set forth in this Executive Order, allege that Linda Johnson committed a misdemeanor related to the duties of office, under the laws of Florida. This suspension is predicated upon the attached probable cause affidavit and information.

**BEING FULLY ADVISED** in the premises, and in accordance with the Constitution and the laws of the State of Florida, this Executive Order is issued, effective today:

Section 1. Linda Johnson is suspended from the public office, which she now holds, to wit: member of the City Commission and Vice Mayor of the City of South Bay.

Section 2. Linda Johnson is prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, which period shall be from today, until a further Executive Order is issued, or as otherwise provided by law.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, this 21st day of December, 2012.

A handwritten signature in black ink, appearing to read "Rick Scott", written over a horizontal line.

GOVERNOR

ATTEST:

A handwritten signature in black ink, appearing to read "Ken Detzner", written over a horizontal line.

SECRETARY OF STATE

IN THE COUNTY COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
IN AND FOR PALM BEACH COUNTY, STATE OF FLORIDA

COUNTY CRIMINAL DIVISION

STATE OF FLORIDA

CASE NO. *12mm19940 KXWB*  
ISSUE SUMMONS

vs.

LINDA F JOHNSON, B/F, 08/18/1965, as to Count 1, and  
SHIRLEY MAE WALKER-TURNER, B/F, 06/30/1948, as to Count 2 and  
JOHN ELMER WILSON, SR, B/M, 01/25/1947, as to Count 3

INFORMATION FOR:

- 1) SUNSHINE LAW VIOLATION
- 2) SUNSHINE LAW VIOLATION
- 3) SUNSHINE LAW VIOLATION

ORIGINAL

FILED  
2012 DEC 13 PM 3:58  
PALM BEACH COUNTY  
CRIMINAL DIVISION

In the Name and by Authority of the State of Florida:

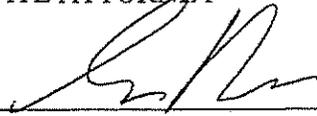
PETER ANTONACCI, State Attorney for the Fifteenth Judicial Circuit, Palm Beach County, Florida, by  
and through his undersigned Assistant State Attorney, charges that:

COUNT 1: LINDA F JOHNSON on or between July 1, 2012 and August 7, 2012, in the County of Palm Beach and State of Florida, while a member of the City of South Bay City Commission, did knowingly attend a meeting by using City Manager Corey Alston as a conduit and/or liaison between other members of the City of South Bay City Commission, at which meeting official acts were to be taken regarding a payment made to City Manager Corey Alston; the meeting was not open to the public at all times and/or the City of South Bay City Commission did not provide reasonable notice of the meeting, contrary to Florida Statute 286.011(1) and (3)(b). (2 DEG MISD)

COUNT 2: SHIRLEY MAE WALKER-TURNER on or between July 1, 2012 and August 7, 2012, in the County of Palm Beach and State of Florida, while a member of the City of South Bay City Commission, did knowingly attend a meeting by using City Manager Corey Alston as a conduit and/or liaison between other members of the City of South Bay City Commission, at which meeting official acts were to be taken regarding a payment made to City Manager Corey Alston; the meeting was not open to the public at all times and/or the City of South Bay City Commission did not provide reasonable notice of the meeting, contrary to Florida Statute 286.011(1) and (3)(b). (2 DEG MISD)

COUNT 3: JOHN ELMER WILSON on or between July 1, 2012 and August 7, 2012, in the County of Palm Beach and State of Florida, while a member of the City of South Bay City Commission, did knowingly attend a meeting by using City Manager Corey Alston as a conduit and/or liaison between other members of the City of South Bay City Commission, at which meeting official acts were to be taken regarding a payment made to City Manager Corey Alston; the meeting was not open to the public at all times and/or the City of South Bay City Commission did not provide reasonable notice of the meeting, contrary to Florida Statute 286.011(1) and (3)(b). (2 DEG MISD)

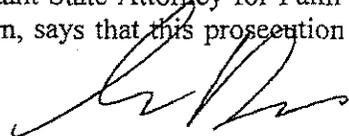
PETER ANTONACCI  
STATE ATTORNEY



By: MICHAEL DUTKO, JR  
FL. BAR NO. 0072505  
Assistant State Attorney  
Fifteenth Judicial Circuit

STATE OF FLORIDA  
COUNTY OF PALM BEACH

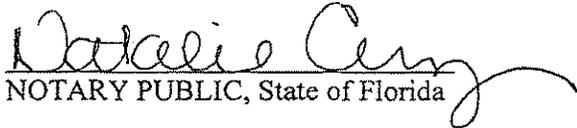
Appeared before me, MICHAEL DUTKO, JR, Assistant State Attorney for Palm Beach County, Florida, personally known to me, who, being first duly sworn, says that this prosecution is instituted in good faith.



Assistant State Attorney

Sworn to and subscribed to before me this 13<sup>th</sup> day of December, 2012.



  
NOTARY PUBLIC, State of Florida

MD/nc

**NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING**

Pursuant to Florida Rule of Judicial Administration 2.420(d)(2), the filer of this court record (Information) indicates that confidential information is included within the document being filed; to wit: Social Security Number, § 119.0714.

ARREST / NOTICE TO APPEAR

1. Arrest 3. Request for Warrant  
2. N.T.A. 4. Request for Capias

3

Juvenile

OBTS Number		Agency OR# Number FLO50015A		Agency Name Palm Beach County State Attorney's Office		Agency Report Number (N.T.A.'s only)	
Charge Type: Check as many as apply		1. Felony <input type="checkbox"/> 2. Traffic Felony <input type="checkbox"/>		3. Misdemeanor <input checked="" type="checkbox"/> 4. Traffic Misdemeanor <input type="checkbox"/>		5. Ordinance <input type="checkbox"/> 6. Other <input type="checkbox"/>	
Location of Arrest (Including Name of Business)				Location of Offense (Business Name, Address) 335 SW 2 Ave, South Bay, Fl. 33493			
Date of arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle	

Name (Last, First, Middle) JOHNSON, LINDA				Alias (Name, DOB, Soc. Sec. #, Etc.)			
Race W - White B - Black	I - American Indian O - Oriental/Asian	Sex M F	Date of Birth 08/18/1965	Height 5'05"	Weight 180	Eye Color BROWN	Hair Color BLACK
Scars, Marks, Tattoos, Unique Physical Features (Location, Type, Description)				Marital Status M	Religion UNK	Indication of: Alcohol Influence <input type="checkbox"/> Drug Influence <input type="checkbox"/>	
Local Address (Street, Apt. Number)		(City)	(State)	(Zip)	Phone ( )	Residence Type: 1. City 2. County 3. Florida 4. Out of State	
Permanent Address (Street, Apt. Number)		(City)	(State)	(Zip)	Phone (561) 985-0378	Address Source LISTED	
Business Address (Name, Street)		(City)	(State)	(Zip)	Phone (561) 996-6751	Occupation CITY VICE MAYOR	
D/L Number, State J525-526-65-798-1/ FLORIDA		Soc. Sec. Number		INS Number		Place of Birth (City, State) FLORIDA	Citizenship USA

Co-Defendant Name (Last, First, Middle) WALKER-TURNER, SHIRLEY		Race B	Sex F	Date of Birth 06/30/1948	<input type="checkbox"/> 1. Arrested <input checked="" type="checkbox"/> 2. At Large	<input checked="" type="checkbox"/> 3. Felony <input type="checkbox"/> 4. Misdemeanor <input type="checkbox"/> 5. Juvenile	
Co-Defendant Name (Last, First, Middle) WILSON, JOHN		Race B	Sex M	Date of Birth 01/25/1947	<input checked="" type="checkbox"/> 1. Arrested <input type="checkbox"/> 2. At Large	<input checked="" type="checkbox"/> 3. Felony <input type="checkbox"/> 4. Misdemeanor <input type="checkbox"/> 5. Juvenile	
Parent Legal Custodian Name (Last, First, Middle)		Address (Street, Apt. Number)		(City)	(State)	(Zip)	Residence Phone ( )
Address (Street, Apt. Number)		(City)	(State)	(Zip)	Business Phone ( )		

Notified by: (Name)		Date	Time	Juvenile Disposition 1. Handled/Processed within Dept. and Released. 2. TOT HRS/DYS 3. Incarcerated	
Released To: (Name)		Relationship		Date	Time
The above address was provided by <input type="checkbox"/> defendant and / or <input type="checkbox"/> defendant's parents. The child and / or parent was told to keep the Juvenile Court Clerk's Office (Phone 355-2526) informed of any change of address.				School Attended	
Yes, by: (Name) <input type="checkbox"/> No, (Reason) <input type="checkbox"/>				Grade	
Property Crime? <input type="checkbox"/> Yes <input type="checkbox"/> No		Description of Property		Value of Property	

Drug Activity N. N/A P. Possess	S. Sell B. Buy T. Traffic	R. Smuggle D. Deliver E. Use	K. Dispense/ Distribute	M. Manufacture/ Produce/ Cultivate	Z. Other	Drug Type N. N/A A. Amphetamine	B. Barbiturate C. Cocaine E. Heroin	H. Hallucinogen M. Marijuana O. Opium/Deriv.	P. Paraphernalia/ Equipment S. Synthetic	U. Unknown Z. Other
Charge Description SUNSHINE LAW VIOLATION		Counts 1	Domestic Violence <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Statute Violation Number 286.011(1)		Violation of ORD #				
Drug Activity N	Drug Type N	Amount / Unit	Offense # 2012PI000111A99	Warrant / Capias Number		Bond				
Charge Description		Counts 1	Domestic Violence <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Statute Violation Number		Violation of ORD #				
Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number		Bond				
Charge Description		Counts 1	Domestic Violence <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Statute Violation Number		Violation of ORD #				
Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number		Bond				
Charge Description		Counts 1	Domestic Violence <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Statute Violation Number		Violation of ORD #				
Drug Activity	Drug Type	Amount / Unit	Offense #	Warrant / Capias Number		Bond				

<input type="checkbox"/> Instruction No. 1 Mandatory Appearance in Court		Location (Court, Room Number, Address)	
<input type="checkbox"/> Instruction No. 2 You need not appear in Court but must comply with instructions on Reverse Side		Court Date and Time	
Month	Day	Year	Time A.M. P.M.

I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.			
Signature of Defendant (or Juvenile and Parent/ Custodian)		Date Signed	
HOLD for other Agency Name		Signature of Arresting Officer x <i>Brian McDaniel</i>	
<input type="checkbox"/> Dangerous <input type="checkbox"/> Resisted Arrest <input type="checkbox"/> Suicidal <input type="checkbox"/> Other:		Name of Arresting Officer (Print) BRIAN MCDANIEL	
Intake Deputy I.D. # Pouch #		I.D. # 1391	
Transporting Officer I.D. #		Agency	
Name Verification (Printed by Arrestee) (PRINT)		PAGE 1 OF 1	
Witness here if subject signed with an "X"			

DISTRIBUTION: WHITE - COURT COPY GREEN - STATE ATTORNEY YELLOW - AGENCY PINK - JAIL GOLD - DEFENDANT (N.T.A.'s ONLY)

OBTS Number		PROBABLE CAUSE AFFIDAVIT			1 Arrest	3 Request for Warrant	3	Juvenile
Agency ORI Number <b>FL 050015A</b>		Agency Name <b>Office of the State Attorney 15<sup>th</sup> Judicial District</b>			Agency Report Number <b>SA - 2012PI000111A99</b>			
Charge Type Check all that Apply		<input type="checkbox"/> 1 Felony <input type="checkbox"/> 2 Traffic Felony		<input checked="" type="checkbox"/> 3 Misdemeanor <input type="checkbox"/> 4 Traffic Misdemeanor		<input type="checkbox"/> 5 Ordinance <input type="checkbox"/> 6 Other		Special Notes
Name (Last, First, Middle) <b>Johnson Linda</b>		Alias	Race <b>B</b>	Sex <b>F</b>	Date of Birth <b>08/18/1965</b>			
Charge Description <b>Sunshine Law Violation</b>		Charge Description						
Victim's Name (Last, First, Middle) <b>City Of South Bay</b>		Race	Sex	Date of Birth				
Local Address (Street, Apt Number) <b>335 SW 2<sup>nd</sup> Avenue</b>		(City) <b>South Bay</b>	(State) <b>FL</b>	(Zip) <b>33493</b>	Phone <b>(561)996-6751</b>		Address Source <b>Known</b>	
Business Address (Name, Street) <b>Same as Local</b>		(City)	(State)	(Zip)	Phone <b>Same</b>		Occupation <b>City Government</b>	
The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that the above named Defendant committed the following violation of law. The Person taken into custody..								
<input type="checkbox"/> Committed the below acts in my presence. <input type="checkbox"/> Confessed to		Admitting the below Facts <input checked="" type="checkbox"/> Was found to have committed the below acts, resulting from my (described) investigation.		<input type="checkbox"/> Was observed by <input checked="" type="checkbox"/> Was found to have committed the below acts, resulting from my (described) investigation.		Who told That he/she saw the arrested person commit the below acts.		
On The <b>30</b> Day Of <b>October</b> 20 <b>12</b> At <b>1000</b> <input checked="" type="checkbox"/> A.M. <input type="checkbox"/> P.M.								
<p>The State Attorney's Office Public Integrity Unit received information from City of South Bay employee George Sandiford about recent questionable behavior of the City of South Bay City Manager Corey Alston. Sandiford advised Alston obtained a payout of his vacation leave for over \$25,000.00 in August 2012, while remaining employed by the city. Sandiford suggested the payout was obtained via a verbal approval by three (3) of the five (5) City Commissioners in August 2012 outside of a public Commission meeting, prior to the payout, and that the hours Alston was paid for were in excess of hours actually accrued. The public vote for approval by the city commission of Alston's payout did not occur until November 20<sup>th</sup>, 2012 which is after our investigation ensued and months after Alston received the money. Sandiford also alleged that Alston, who is a full time employee, was being paid by the City of South Bay for work hours not performed and while he was at a school(s) in Ft. Lauderdale, Florida that he (Alston) has a personal interest in. Alston allegedly used the city expense account to put gas in a council member's personal vehicle(s) when the council member's vehicle was not used for work related business. Finally, Sandiford was alleging that Alston gave approval for City Commissioner John Wilson to use a City vehicle to take a trip to Disney World, Orlando, Florida to attend Alston's wedding that took place on the weekend of September 1<sup>st</sup>, 2012.</p> <p>On Friday November 9<sup>th</sup>, 2012, Detective Flechaus assisted me by contacting the five City Council members by phone and arranged separate interviews with each member. During these phone interviews, Commissioner John Wilson, Vice Mayor Linda Johnson and Mayor Shirley Walker-Turner all confirmed they had been contacted by Alston in August 2012 and asked about his payout of vacation time. Each of these council members advised they told Alston they would approve the payout if Alston was able to get a majority vote from the other council members. It should be noted, each of the three (3) council members that were contacted by phone (by Alston) said the conversations with Alston regarding the payout were general and that specific monetary amounts or number of vacation hours was not revealed. Commissioner Joe Kyles and Commissioner Esther Berry both advised that Alston never contacted them in reference to the payout issue.</p> <p>On Monday November 12<sup>th</sup>, 2012 Detective Flechaus and I met with City Commissioner John Wilson. Prior to conducting our interview with Wilson, he was advised he was being questioned in reference to an on-going criminal investigation and that he was free to leave at any time during the interview. The following is a summary of what Wilson said during his sworn taped statement in regards to Alston's payout. Wilson advised he has been a commissioner for eight (8) years. Wilson said he received a phone call from Alston sometime in August 2012 in regards to Alston wanting to take a payout of his vacation leave. Wilson said he verbally told Alston that if he obtained a majority vote, he (Wilson) would also vote "yes" to the payout. Wilson said that Alston did not tell him how many hours or how much the payout would be at the time of the phone call. (Wilson said he found out the amount of the payout after it was paid to Alston). Wilson acknowledged that; as a council member; he did not follow proper procedures when voting for Alston's payout. Wilson stated he knew this not to be proper procedure because there was no public discussion or vote prior to the payout. Wilson was questioned about what the Charter states in reference to the City Manager taking a payout of vacation time; however, he could not advise any information on the contents of the City Charter. The interview was then concluded. For specific details of the interview with Wilson, please refer to the recording which has been placed into evidence at the State Attorney's Office.</p> <p>On Monday November 19<sup>th</sup>, 2012, City of South Bay Commissioner Esther Berry provided a sworn statement to Detective Flechaus and me. The following is a summary of what Berry said in regards to Alston's payout. Berry advised she did not become aware of such payout until the October 2012 Commission meeting. Berry further advised Alston never contacted her to inquire as to whether or not she would be in favor of him receiving a payout for accrued vacation hours. Berry said she was not aware if it was legal, per Alston's contract or the City Handbook for him to receive such a payout. Additionally, without referring to his contract or the city handbook, she was unsure of the amount of vacation time he earns as the city manager. Finally, Berry advised if she had been contacted by Alston for comment on this issue, she would have denied Alston's request for such a payout. For specific details of the</p>								

interview with Berry, please refer to the recording which has been placed into evidence at the State Attorney's Office.

On Monday November 19<sup>th</sup>, 2012, City of South Bay Mayor Shirley Walker-Turner, provided a sworn statement to Detective Flechaus and me. The following is a summary of what Walker-Turner said in regards to Alston's payout. Turner was questioned as to her knowledge of the payout of accrued vacation hours of Alston. Turner advised she did have conversations with Alston about the payout and when he initially approached her for approval, she advised Alston, she did not think it was a good time for his request due to budget discussions and unresolved questions regarding Glades Utility Authority (GUA). Despite this opinion, Alston asked her if he was able to poll other commission members regarding a payout of his vacation hours and if he was to receive a majority approval, would she approve the payout. Turner said she would support the payout if consent from the majority of the commission was gained. Turner said as a matter of procedure, the payout should have been ratified at a public meeting, however, it was not. When questioned about the amount of the payout, Turner recalled it was approximately twenty-seven thousand dollars (\$27,000); however she was not able to explain how Alston had accrued that amount of vacation time. Turner referred to Alston's contract and to the handbook, but could not recall specifically the numbers related to accrual of time, or whether or not a pay out of accrued time was even permissible if an employee was not terminating their employment with the city. For specific details of the interview with Turner, please refer to the recording which has been placed into evidence at the State Attorney's Office.

On Tuesday November 20<sup>th</sup>, 2012, Detectives Romagnoli and Flechaus attended the City of South Bay City Commission Meeting. In attendance were Mayor Walker-Turner, Vice Mayor Linda Johnson, Commissioner Joe Kyles, Commissioner Esther Berry, Commissioner John Wilson, City Attorney Thomas Montgomery, City Clerk Jessica Figueroa, Human Resource Director Vicenta Del Bosquez (Vicki), Finance Director Massih Saadatmand, and City Manager Corey Alston. Prior to the actual meeting, attendees conducted a workshop, wherein all the agenda items were discussed. One of the items on the agenda was "Resolution 09-2013, Ratifying recent compensation to the City Manager, an employee of the City Commission of the City of South Bay". City Manager Alston had added this resolution to the agenda for the night's meeting. During discussion of this resolution Commissioner Kyles brought up the fact that the payout had already occurred in August 2012 and the three other council members who voted yes (verbally) by phone had violated the Sunshine Law. Additionally, he contested the fact that a resolution was being discussed months after the issue to be voted on that night had already occurred. During this discussion, Mayor Walker-Turner, Vice Mayor Johnson, and Commissioner Wilson all acknowledged that they did give their approval to the payout when Alston called them in August. Commissioner Kyles then addressed the amount of four hundred ninety-eight (498) hours that Alston had received payment for and questioned how Alston could have accrued such a large number of hours. In response, Alston appeared unsure about the number of hours he was paid for because he said, "I don't think it was 498 hours." Alston then instructed Saadatmand to retrieve the document that showed his final vacation leave payout. Saadatmand returned a few minutes later and provided Alston with a document, presumably which displayed the amount of vacation hours in which Alston was paid for in August 2012. Despite the introduction of this document and due to the fact council members were discussing other items on the agenda, no one came back to address the document that Saadatmand gave to Alston. Following the workshop, the actual public meeting began and several members of the public were in attendance. When this resolution was re-addressed, Mayor Walker-Turner and Vice Mayor Johnson both said that they had met with Saadatmand prior to tonight's meeting and he showed them the total hours accrued by Alston. The specific number of hours was not discussed; they only advised that they trusted the documents shown to them by Saadatmand. After much debate, Vice Mayor Johnson brought the payout resolution to a vote. Prior to the vote, the Mayor (Walker-Turner) asked the City Attorney (Montgomery) whether or not they could or should vote on this resolution; which in essence had already been approved and carried out. Montgomery advised the members that voting at the meeting would only resolve the issue of their vote for Alston's payout. The vote itself, however, would not justify or resolve the violation of the Sunshine law. Mayor Walker-Turner acknowledged the violations and she and Johnson called for the vote, nonetheless. The vote was taken. Walker-Turner, Johnson, and Wilson voted yes. Kyles and Berry voted no. For specific details of the meeting, please refer to the recording and written minutes provided City Clerk Figueroa which has been placed into evidence at the State Attorney's Office.

On Tuesday November 27<sup>th</sup>, 2012, City Commissioner Joe Kyles provided a sworn, recorded statement. The following is a summary of what Kyles said in regards to Alston's payout. Kyles advised that Alston never contacted him in regards to receiving a payout or his accrued vacation time. Kyles said he did not know about the payout until after Alston received it. Kyles said he would have voted "no" to Alston taking the payout because Alston was not allowed to take a payout of his vacation leave until he separates from the city. Kyles also explained that this request had not been discussed or voted upon at a public meeting; therefore he believed that Sunshine Law(s) had been violated. For specific details of the interview with Kyles, please refer to the recording which has been placed into the evidence section at the State Attorney's.

On Tuesday November 27<sup>th</sup>, 2012, Vice Mayor Linda Johnson provided a sworn, recorded statement. Johnson advised Alston contacted her by phone in August 2012 and asked if she would be in favor of or against him receiving a payout for accrued vacation time. Johnson said she instructed Alston to poll all the commission members and if he obtained a majority vote in support of a payout, then she too would support his payout. Johnson said she was not aware of which commission members Alston contacted to obtain support for the payout; or was she made aware of the specific amount of hours to be paid out. Johnson said eventually, at the public commission meeting on November 20<sup>th</sup>, 2012, she voted to approve the resolution outlining Alston's payout of vacation time. Prior to the meeting, Johnson said she met with the finance manager to verify whether or not the time Alston was paid for was actually available to him for payment. Johnson said she was advised by the finance manager that the time of four hundred ninety-eight (498) hours was available to Alston for payment. Despite this confirmation, when Johnson was presented with the sections from

employee handbook and Alston's contract that outline the accrual of vacation time, she could not reconcile how Alston could have accrued four hundred ninety-eight (498) hours of vacation time. Overall, Johnson said she based her vote to approve the payout on information and documents presented to her by Alston and by the finance director. Johnson said since the payout was made to Alston, she has not learned from anyone that an error was made in the calculation of the hours Alston was entitled to receive payment for. In reference to Alston's connection to a charter school in Broward County, Florida, Johnson said she could not comment on Alston's specific interest in the charter school, or the time/hours Alston puts in at the school. Next, Johnson was asked to comment on Alston's use of city funds to pay for gasoline for her personal vehicle. Johnson explained that many times she has traveled on city business, used her own vehicle, and incurred gasoline expenses. As a means of repayment, Johnson acknowledged that she did accept Alston's payment from city funds for gasoline in her personal vehicle. Finally, Johnson was asked to comment on the use of city vehicles. Johnson said a city vehicle was only authorized for use to conduct city related business and that the use of a city vehicle for personal reasons was not permissible. Johnson did not have any first-hand knowledge related to Commissioner Wilson's use of a city vehicle to travel to Orlando, Florida for Alston's wedding. For specific details of the interview with Johnson, please refer to the recording which has been placed into evidence at the State Attorney's Office.

On Wednesday November 28<sup>th</sup>, 2012, at approximately 1049 hours, Alston provided a sworn recorded statement to Detective Flechaus and me. Prior to posing any questions to Alston, he was advised he is the subject of a criminal investigation that stems from numerous allegations pertaining to an illegal payout of vacation hours prior to separating from the city, sunshine law violations, misappropriation of city funds, and official misconduct. Alston was advised that he was free to leave at any time and free to choose whether or not to answer any questions. Alston agreed he was providing a statement freely and voluntarily. The following is a summary of the information obtained during Alston's sworn statement in regards to him contacting three out of the five council members and obtaining verbal approval for his payout. Alston was then questioned about when his individual conversations with the commissioners occurred and if they were all on the same day. Alston advised once he began "chatting" with the commissioners, it took several days. Alston stated that after receiving the approval from the three (3) commissioners, he met in person with the Mayor to re-affirm her permission and she said "yes." Alston went on to explain how he has verbally polled commissioners and verbal authorization on a number of things in the past. Detective Flechaus then asked Alston if during his conversations with the commissioners if he had mentioned how much money he was getting with his payout. Alston advised he did not remember the details of the conversations. Alston stated he believes he was asked by all three (3) commissioners polled what the amount of his payout would be and he advised them it would be between twenty five (25) and thirty thousand dollars (\$30,000). Alston was then confronted with the fact that each of the commissioners had provided sworn statements and they were all shocked at the amount of Alston's payout. In response, Alston said again that he did not know the exact hours he was paid out, he did not believe anything was done wrong and further, he stated if the city commissioners had an issue with his payout, the number of hours, or the amount, then this would never have happened. Alston was questioned as to why he did not poll Commissioner Berry and Kyles on the issue of his payout. He advised he attempted to contact Kyles, however he was unsuccessful. With respect to Berry, he advised he did contact her, but she did not respond. He went on to say that it was likely she did not respond because she has relayed to him in the past that she believes all business between them should be discussed in public.

On Thursday November 29<sup>th</sup>, 2012, City of South Bay Attorney Thomas Montgomery provided a sworn, recorded statement. Montgomery was the City Attorney for the past five years. Montgomery started off by saying that the payout of vacation time Alston took was not permissible. He advised it would only be considered if Alston was to separate himself from the city or vice versa. Montgomery said he never knew about the payout until after the fact and he did not see the resolution until the November 20<sup>th</sup>, 2012 council meeting because Alston had written his own resolution and put it on the agenda. Montgomery said that when Alston polled the three (3) council members and they acknowledged the approval prior to a resolution being written and ratified at a council meeting before the payout he believed that it violated part of the Sunshine Law(s). Montgomery said he had advised Alston and the other members of this at the November 20<sup>th</sup>, 2012 meeting and they went ahead with the vote anyway. Montgomery said, in his opinion, it makes no legal sense to pay someone (Alston) in advance of money they may not have earned. Furthermore, the amount of the Alston's payout would require the city to make an amendment to the budget which, to his knowledge, has not been done. In conclusion, Montgomery said it was illegal for Alston to initiate and process his own payout because Alston was not permitted to do so per his contract and City Handbook. Also, the process by which Alston took with the three (3) council members and not the other two (2) members to get his payout approved violated the Sunshine Law. For specific details of the interview with Montgomery, please refer to the recording which has been placed into evidence at the State Attorney's Office.

Due to the above information there is probable cause to charge Mayor Shirley Walker -Turner, Vice Mayor Linda Johnson, and Commissioner John Wilson with Violating the State of Florida's Sunshine Law section 286.011(1): whereby payment to the City Manager was approved by individual city commissioners in separate conversations with the City Manager, who then related to the Clerk that his payment had been approved. This is in violation of 286.011(1) which requires that all formal actions of a commission be accomplished only at public meetings that are noticed in advance. The law states that 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.

 348  
Notary Public, Clerk of Court, Officer (F.S.S. 117.10)

  
(Signature of arresting / Investigative Officer)

The foregoing instrument was sworn to or affirmed and subscribed before me this 13<sup>th</sup> Day of DEC Who is personally known to me and/or produced identification.

20 12 by McDaniel  
(Print name of Arresting/Investigative Officer)

STATE OF FLORIDA  
COUNTY OF PALM BEACH

DISTRIBUTION

WHITE - Court Copy

GREEN - State Attorney

YELLOW - Agency

PINK - Agency