

**BOARD APPROVED August 6, 2007**  
**TRAILER ESTATES PARK AND RECREATION DISTRICT**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING**

July 16, 2007

9:30 a.m.

Janet Jones gave the invocation followed by the Pledge of Allegiance.

Chairman Janet Jones called the meeting to order.

**ROLL CALL:**

Present were Bruce Smith, John Vander Molen, Mary Lou McNulty, Janet Jones, Pam Cole, Margo Cushman, and Joe Bigley. Peg Durham and Tom Featheringill were absent.

Mary Lou McNulty made a motion to accept the minutes of the July 2<sup>nd</sup> meeting. Margo Cushman added a second to the motion. Passed 7-0.

Mary Lou McNulty made a motion to accept the minutes of the July 9<sup>th</sup> workshop. Margo Cushman seconded. Motion passed 7-0.

**CORRESPONDENCE:**

The secretary received no correspondence. Ms. Jones said an unsigned complaint was received at the office. As stated in the past, no action will be taken on an unsigned complaint. Ms. McNulty received an email from Harry Splett to use her influence as a senior board member to have the lawyer's presence at the meetings eliminated. Mr. Vander Molen has correspondence, which he will read when he makes his motion later so he doesn't have to read twice.

**REPORT OF THE TREASURER:**

Ms. Cole summarized the Revenues and Expenses Budget Performance report as of 6/30/2007. Highlights being the interest income being \$12,500 over the YTD budget. Marina income is \$33,000 over the YTD budget figure. Assessments are \$32,300 short of the annual corrected assessment figure of \$876,176. Misc. Income is short \$14,000 YTD. This may be because we have done a better job of putting items in the correct category and not used miscellaneous unless necessary. Expense item highlights included payroll expense, which is \$20,000 under YTD budget figure. Legal expense is \$18,000 over budget; utilities are \$4,000 over budget. Insurance is \$42,000 over budget through June 30<sup>th</sup>. Maintenance is \$15,000 under budget. Capital Outlay is \$43,000 under budget.

**APPROVAL OF BILLS:** None

**EXHIBIT**

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#### **COMMENTS FROM ATTORNEY:**

Mr. Barnebey stated that he has worked on code enforcement issues and deal with long term issues that had started prior to him being retained as attorney for the park. He met with Maggie Mooney, Mary Lou Smith and John Vander Molen on June 9<sup>th</sup>. Ms. Smith had sent a lengthy letter that spoke of the issues that concern her and why she retained an attorney. Issues were about the Sunshine Law violations, the antiquated BY-LAWS that conflict with the Sunshine Law (i.e. Executive Committee Meetings). He recommends that the Executive Committee be suspended until the BY-LAWS can be rewritten. There should be another Sunshine seminar within the next two months. Mr. Vander Molen suggested that we have the seminar each January after the new trustees are sworn into office. There are no rules or procedures for how anything is to be done. Although this is being worked on, it is a slow process during the summer months. These rules need to be set forth so that they can be consistently enforced. Mr. Barnebey says they should be divided into more manageable pieces. It is important to comply as there can be serious penal and monetary fines assessed. Ms. Smith thinks there needs to be a better explanation of the assessment figure. This should be a particular focus for next year. The Marina should have money set aside for operation and upkeep. As he understands it, the money collected from the owners should be set aside for this purpose and the money collected from outsiders given to park for operating expenses. Code enforcement should use fines instead of going to court. This would mean a change in the Charter (Enabling Act ). Mary Lou McNulty asked if we would receive a report and he said he would try to have one by the end of the week. He also addressed the request by Ms. Smith to have her letter posted for the public to read. The bulletin boards are used for the information concerning the park and its business. Anyone can obtain a copy of the letter by going to the office and asking for one.

#### **INFORMATIONAL REPORTS FROM TRUSTEES:**

**Joe Bigley**- None

**Margo Cushman**- None

**Mary Lou McNulty** reminded everyone who volunteers time in the park to register and submit volunteer hours to RSVP. In office there is a newspaper put out by the Red Cross that is very informative about and tells all about what you need after a disaster to take to FEMA.

Sunset Walkway bricks are still for sale.

**John Vander Molen** said that the gate to pool is being installed as he speaks. He has also been working with the law firm on the DeSears fence. Scott had asked him to see if he could find a deed to the property. Thanks to TJ and Mark who found the Mortgage Deed in one of the boxes in the attic. This property, the marina area and the beach were purchased for \$280,000 on December 30, 1971.

**Bruce Smith** said a large boat had two gas tanks were stolen last night. Looking for volunteers to check marina throughout the night. He asked anyone who has had a loss to give him a short synopsis of what happened. Requested donations to install a camera system in the marina. Bob Baugh to spearhead donation fund.

Talked about legal costs. We are paying \$175.00 per hour for advice during meetings. Other projects are being worked on. Thinks this should be voted on prior to engaging the

law firm to keep costs down. Looks like we need to spend time to get budget under control. State Law 189.418 states "...and it is unlawful for any officer of a special district to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations". We have only two and a half months to get budget under control. We need to stop discretionary spending. We do not need air conditioners at this time. Don't need to build docks, overtime should be watched, insurance, office supplies, commercial dumping in our dumpsters. Need to amend budget to have expenses the same as original budget. Do not want to get in reserves. Need procedures for getting bids, equipment and its upkeep chart. We have a short time to decide how we are going to take care of about a \$70,000 deficit in the budget and get in amended.

**Janet Jones** Manatee put out page telling people how to divide debris after a storm. The county will pick up items after any storm. Spoke with Kasey at Citizens Action about how to get back into park after a disaster. After she explained she told them to call Steve Simpson at County who verified her information. Because we have county roads and Waste Management pick up our garbage, we will have debris pickup. Putting an article the Tribune. Please feel free to call him. If you have questions, call Citizens Action. They are quick and reliable.

Residents have been receiving letters asking them to sell their homes to them. TJ sent a letter back to Desoto Holdings Inc. explaining that we are a deed restricted community and a copy of our deed restrictions. If residents receive a letter from other realtors or holding companies, please bring to office so restrictions can be sent to them.

Janet presented a list of the people that she has asked to be on the Deed Restriction Committee. She also read a directive that she has given them. Most important is getting more owners and less renters. Mr. Smith asked if other persons in the park would like to be a part of this committee, would they be able to join? Not at this time. There was much discussion regarding the input to these deed restrictions. Mr. Smith feels that it should fall under the PR Trustees, since they are the ones designated to enforce them. He also felt that more people should have input than the 5 that Ms. Jones appointed. There should also be a more diversified committee with input from all of the board of trustees. Mr. Barnebey stated that this would be a Standing Committee based on the BY-LAWS definition. Based on conversation surrounding the appointment of committee members prior to trustee, it was decided that we will workshop the Deed Restriction Committee on July 23, 2007.

**John Vander Molen** introduced his sister, Kay Hislop, as the camera person of the day.

#### **REPORTS FROM STANDING COMMITTEES – None**

#### **RESIDENTS COMMENTS AND QUESTIONS**

Mary Beth Garrigus-wanted to make sure she could pick up a copy of the Mary Lou Smith letter after. Stated that the docks need to be repaired. She tripped over one of the boards this past weekend and there are several boards that are turned up and can cause persons to trip. Needs to be done ASAP even though there is a money crunch. Do our deed restrictions allow for fines to be assessed when folks do not keep their property up? Is this what the committee will be doing? We have no fines. Will Mr. Barnebey be helping? After committee has finished, he will read for legality. May need a charter change. Many times it has been said that we do not want to mess with the Charter. Mr.

Barnebey says that any time the legislature meets, our charter could be in danger. Will be some expense involved. No amount is set. Downside is that legislature may decide that there is no need for special districts. Margo asked if we could lose our charter. It is possible. Ms. McNulty asked if there needed to be a charter change to amend deed restrictions. If it involves collecting fees, it may need changed. Can increase assessment to all residents to cover the cost of maintenance of park.

Discussion followed about the definition of an "improved lot".

Mike Neal: Everyone has an idea of things that need to be changed in deed restrictions. Need a laundry list of things to work on.

Bob Baugh: It is discouraging to get something like this started for people who sit in audience and listen and wait to talk. Pet peeve is that board gets of on tangents and nothing gets decided. He thinks that if we are in as bad shape with the budget as has been said, there is nothing that needs to be done in the next 2 and a half months. If that would solve our problem, he thinks we should stop any further spending.

Bev Lew: She agrees that we should stop spending until someone can show why we purchased insurance, what it covers, maintenance charts in writing. She doesn't understand why we continue to appoint committees that are all of one mind set. There should be diversity when making up committees. It is unfair that the chair should appoint John as "King" of the park. He is in charge of ARC and that is under Mr. Bigley. Violation of the Sunshine Law for Mr. Vander Molen to report to Mr. Bigley unless done in meeting, which is not being done. Need a flow Chart to see what each trustee does. He also puts what we see on the park channel, he is in charge of maintenance, personnel and now he is in charge of deed restrictions. Need to diversify committee. Need a letter from the county to say they are picking up debris after a disaster. Has asked for last four months. Need to amend budget. Cannot spend money that we do not have (legal fees) Use people that have volunteered to help. Spend the \$1,000 and join the Special Districts so that we can learn from other parks.

Ms. McNulty asked if we should call county again. Ms. Cole said that she has a call to Mr. John Barnett about the debris pick up. When he returns the call, she will ask for it to be in writing.

Mike Neal: If it ain't broke, don't fix it. You don't spend money if you don't have it. Is Crime Watch a Standing Committee or a Club? Club.

Bob Getner: Need surveillance in the storage lot & R.V. storage area. Mr. Smith said the system they are looking at is \$2,000 to \$3,000. Looking at equipment that will let us ID face.

Mike Neal: has a neighbor that is up north and every morning he gets on his computer and checks his house. If someone can do this for his winter home, the fee should be nominal.

Mary Huston: Camera at pool has not been there all summer. Even though Mr. Barnebey has said that trustees don't have to answer questions, she doesn't feel that they are ever answered if they don't. She asked Joe Bigley if he had talked to the church about fence. He talked to someone but not the right person. What about putting up a chain link fence around the marina? Have talked about it in Marina Committee. This does not stop people from coming into marina area in their own boat. Asked Janet Jones who the chairman of the deed restriction committee. Would have to elect one. She then made statements about the length of time each proposed member has been in the park. Need new blood. Janet said that she was looking for experience and one person has served on the board previously and she thought that was important. Asked Ms. Cole about the bocce court amount in the budget. There is nothing to show that the Bocce Club contributed to the expense. It was taken from maintenance and credited to maintenance when the check was received from Bocce Club. Asked Mr. Vander Molen if we are replacing air conditioners because they are not working or because outside is rusting out? They are working and the outsides are rusting. Prudent business says that you don't wait until it breaks down. Asked when they were last serviced. Have never been serviced as in repairs. Does not know if they get annual check ups. What is policy on replacement of equipment? None. Do we have a disposal policy? No. When you buy something new they take the old one away. Do we have sealed bids? No. Need to read 189.418 regarding the budget process. If air conditioners are still working, we don't need to replace them at this time.

Ms. McNulty asked that people give questions to board prior to meeting since they are usually prepared by resident before meeting.

Bev Lew had issue with the way Mr. Vander Molen answered a question from Ms. Huston. All people should have respect for one another and act accordingly. Disrespecting someone who has a different opinion than you is not acceptable behavior.

Mary Beth Garrigus- cannot give list of questions if you don't have an agenda prior to meeting. It is good to have a mixture of people, both younger and older, on committees. Pay closer attention to skill sets available in the park to keep from paying outsiders when it is unnecessary.

Mike Neal checked and there is a working camera at the pool

#### **OLD BUSINESS:**

Ms. Cole--The errors and omissions policy is \$27,202 a year. This question was asked last week. Mr. Smith asked why this was needed as of last May. Mr. Vander Molen said that when he was on previous boards, we had errors and omissions coverage. He was unaware that it had been dropped. Ms. Cole read coverage as stated in the policy.

## **NEW BUSINESS**

Bruce Smith made a motion to register the Trailer Estates Park & Recreation District kitchen with the National Disaster Center for feeding and service. A second to the motion was made by Pam Cole. Motion was passed 7-0.

Bruce explained that it gives us the option to use our small & large hall for feeding and shelter in the event of a disaster.

Pam wanted everyone to understand that "disaster" is not just hurricane. It also includes fire, tornado, air plane crash & lightning strikes.

What would our liability be if we use the building as described? If used as post disaster Red Cross, we have a SOP (standard operating procedure), we must be registered as a possible center with FEMA and Homeland Security on their web site. Red Cross comes in and does 20 minute pre- inspection. Someone from the Board needs to sign off. Person who does this should be decided in advance by board. If they decide it is ok, they take over and their insurance will cover all liability.

John Vander Molen made a motion to accept the bid from N & M of \$8,400 to replace two (2) air conditioner units on the west side of the large hall with 5 ton York. This includes 10 year warranty on the compressor, 5 years on parts, and 2 years on labor. Joe Bigley second. Motion passed 5-2.

John read letter from Tom Featheringill and answered the questions. The two air conditioners operate 24 hours a day and act as the humidity control for the hall to protect the floors. It is the prudent thing to do.

Mary Lou McNulty said that last year she understood that the cases had been worked on.

Mr. Vander Molen said that there was work done on the ones that were replaced last year. They had decided to replace air conditioners on a graduated scale so the expense in any one year would not be too much.

Time frame to replace now would probably be a month or two based on the fact that we would have to get bids, call special meeting to vote and wait for permit.

Many questions were asked about permit times and replacement times.

Individual vote was taken: Bruce Smith and Pam Cole voted no. John Vander Molen, Mary Lou McNulty, Janet Jones, Margo Cushman and Joe Bigley voted yes.

**REPORTS OF CLUBS AND ORGANIZATIONS**

Bruce Smith reported on Yacht Club Hot Dog Roast at the Beach.

Mary Lou McNulty stated that Cook's Night Out will be August 2. Chicken ala-king, salad, pineapple, ice tea with a donation of \$5.00

Coffee break is this Saturday.

Margo Cushman made a motion to adjourn and it was seconded by Pam Cole

Respectfully submitted



Pam Cole, Acting Secretary



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## MEMORANDUM

TO: Trailer Estates Board of Trustees  
FROM: Mark P. Barnebey, Board Attorney *7/20/07*  
RE: Inquiry by Mary Lou Smith  
DATE: July 20, 2007

At the July 16, 2007, regular meeting, the Board requested that I prepare a memo recapping the issues raised by Mary Lou Smith, through her counsel, Maggie Mooney, and providing a recommendation for resolution of each.

### I. Sunshine Law Issues

Many of the specific concerns raised regarding Sunshine violations occurred prior to our being retained to represent the District. Since that time, we have made a presentation to Board members regarding the Sunshine Laws, the Board has been working to correct these issues, and much progress has been made.

Ms. Smith raised concerns regarding Trustees continuing to meet and discuss Trailer Estates issues in private, in violation of the Sunshine Laws. She requested that our firm make another presentation to the Board regarding Sunshine issues within the next couple of months to reinforce the District's commitment to compliance. Because we made our last Sunshine presentation to the Board in November of 2006, and because Trailer Estates generally holds elections in January, John Vander Molen suggested that we make an annual Sunshine presentation in January, following elections. We think that is a good suggestion, in that it would refresh the memories of existing Trustees and provide for an orientation for new Trustees.

# KIRK PINKERTON

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A specific concern was also raised regarding meetings of the "Administrative Committee". The By-Laws of the District created an Administrative Committee, consisting of the Chairman, 1<sup>st</sup> Vice Chairman and 2<sup>nd</sup> Vice Chairman of the Board. The clear intent of the By-Laws is that the committee would meet to handle the administrative affairs of the District. However, because the Administrative Committee consists of more than one Trustee, any meetings of the Committee must be noticed and open to the public, under the Sunshine Laws.

We have recommended that meetings of the Administrative Committee be suspended, and that the By-Laws be re-examined. It is our understanding that the Administrative Committee has not held a meeting for at least nine months. Ms. Smith agrees that the By-Laws should be re-examined, and she has requested that this be done as soon as possible.

## II. Rules, Policies and Procedures

An issue was raised regarding the fact that there is not an organized compilation of rules, policies and procedures of the District. We think the Board has recognized this is an issue, and there is currently a committee examining the procedural rules of the District. Ms. Smith has requested that the Board expedite this process. This will likely be a long and cumbersome process, and perhaps should be done in phases as specific policies are addressed. Further, the Board has expressed reservations about making such changes during the park's off season, when many residents are not present. This is a legitimate concern, as it is important to obtain community buy-in.

## III. Use and Rental of Marina/Dock Facilities

Ms. Smith does not believe that the Board is authorized to lease dock facilities to non-residents of the park or to charge residents for lease of the dock facilities. We respectfully disagree with both of these suggestions, as we believe the Charter authorizes the Board to rent or lease real or personal property of the District. We believe that these are policy determinations for the Board.

Both issues could be clarified by a revision to the Charter. It has been suggested previously that the Charter is due for amendments to make it consistent with laws adopted in recent years. We would recommend that the marina/dock issues be clarified in the Charter whenever it is amended. (There are a number of issues that should be examined when the Charter is reviewed.)

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## V. Special Assessment/District Tax

An issue was raised as to whether the Board had gone through the appropriate special benefit analysis prior to adoption of the budget this year. Generally when a municipality wishes to charge a special assessment to a certain geographic area, they are required to make findings that the assessed properties are receiving a special benefit not realized by other properties in the municipality, and that the assessments are fairly apportioned amongst those properties.

In this case the Legislature has specifically empowered the District to levy an assessment (or district tax) for the purpose of operating the recreation district. As such, a special benefit is presumed to accrue to the property, and additional analysis by the Board is not required. See *City of Treasure Island v. Strong*, 215 So.2d 473 (Fla. 1968). Although, it should be noted that a number of public hearings were held regarding the budget, and there was significant participation by the residents.

There was some question as to the basis for the budget adjustment that occurred at the final budget hearing. I think it was fairly clear that the adjustment was made to accommodate a reserve fund for unanticipated expenses that may arise, and there was discussion by both the Board and the public in this regard. However, in the future the Board should ensure that the basis for any budget adjustments are clear.

If you have any questions, please do not hesitate to contact me.

MPB/SER