

IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA IN AND FOR MANATEE COUNTY

CIRCUIT CIVIL CASE NO. 2008-CA-11315

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:
MARY LOU SMITH, an individual, and :
SHARON DENSON, an individual, :
:
Plaintiffs, : VIDEOTAPED
: DEPOSITION OF
vs. : SHARON DENSON
:
TRAILER ESTATE PARKS AND :
RECREATION DISTRICT, an : VOLUME I
independent special taxing district, : Pages 1 - 169
JANET JONES, an individual, :
JOHN VANDER MOLEN, an individual, :
JOSEPH SALERNO, an individual, and :
MARY LOU McNULTY, an individual, :
:
Defendants. :
:
-----X

TAKEN BY: THE DEFENDANT, TRAILER ESTATE PARKS
AND RECREATION DISTRICT, HEREIN

BEFORE: JOANN L. ZECK
Court Reporter
Notary Public
State of Florida at Large

DATE: May 6, 2009
Commencing at 9:45 A.M.

PLACE: LEWIS, LONGMAN & WALKER, P.A.
1001 Third Avenue West
Suite 670
Bradenton, Florida 34205

1 A I -- because there had never been any Board --
2 public discussion about the Board doing a budget
3 questionnaire, it was not brought up in the
4 December 1st meeting, it was never discussed, no --
5 publicly so that anyone would be aware that this was in
6 the works, I thought it was interesting that Mr. Durrin
7 would know about it and be able to answer our questions
8 about it; obviously there had been some discussion
9 somewhere with someone.

10 Q Well, I'm not asking you whether you felt it
11 was interesting, I'm -- I'm asking you whether you
12 believed it was a violation of the Sunshine Law for
13 Mr. Durrin to be at that meeting, and did he provide
14 you with a copy of a survey?

15 MR. HENNESSY: Objection, form of the
16 question; compound, argumentative.

17 BY MR. SHULTS:

18 Q Did he provide you with a copy of the survey?

19 A Mr. Durrin did not, no.

20 Q Okay. He mentioned that there was a survey
21 that had already been prepared.

22 A No.

23 Q He mentioned a survey.

24 A No.

25 Q I -- well, I thought you just said Mr. -- I'm

1 sorry, I must have misunderstood.

2 What did Mr. Durrin say about a survey during
3 one of these Future Planning Committee meetings in
4 November or December?

5 A He responded to questions we had about the
6 sur -- budget questionnaire.

7 Q A budget questionnaire?

8 A Yes.

9 Q You have to --

10 A Survey; they're one and the same. They
11 sometimes refer to it as budget questionnaire,
12 sometimes they refer to it as the survey.

13 Q Well, was the Future Planning Committee
14 working on the budget questionnaire?

15 A No.

16 Q So the budget questionnaire is different from
17 the survey that the Future Planning Committee was
18 working on?

19 A Yes.

20 Q And members of the Future Planning Committee
21 started asking Mr. Durrin questions about the budget
22 questionnaire?

23 A No.

24 Q Did he start talking about the budget
25 questionnaire?

1 A The budget questionnaire was brought in by
2 Mr. Smith, the Trustee who was acting as liaison, and
3 asked us if we knew about it.

4 **Q All right. Well, Mr. Smith was not on the**
5 **list of people that you felt violated the Sunshine Law**
6 **at these Future Planning Committee meetings.**

7 A Mr. Smith was directed to be there by Mrs. --
8 by the Chairman as the liaison.

9 **Q Was Mr. Smith a member of the Trustees?**

10 A Yes.

11 **Q But you don't believe Mr. Smith violated any**
12 **of the Sunshine Law while he was present at these**
13 **Future Planning Committee meetings?**

14 A My feeling was that because of the Bylaws, the
15 Board is -- has the privilege of having a Trustee
16 represent them at the meeting, and as long as he didn't
17 engage in dialogue that was inappropriate, I didn't
18 think his presence there violated anything.

19 **Q Did he engage in dialogue that was**
20 **inappropriate? Mr. Smith.**

21 A Mr. Smith to my knowledge did not get into the
22 discussion with the other Trustees. He gave us the
23 document and asked us if we knew about it, and from
24 then on I don't remember him -- he said he didn't know
25 anything about it.

1 Q All right.

2 A He wondered if we did.

3 Q And Mr. -- what did Mr. Durrin say at these
4 Future Planning Committee meetings that you felt was
5 inappropriate?

6 A He was able to explain where it came from, how
7 was -- was going to be used, what they were going to do
8 with it, how they were going to handle it, and I just
9 wondered how he knew that.

10 Q All right. But he was being asked questions
11 -- correct me if I'm wrong -- by members of the Future
12 Planning Committee regarding this budget questionnaire;
13 correct?

14 A He volunteered. We didn't ask him.

15 Q So nobody asked him any questions about this
16 budget questionnaire?

17 A We did not start asking him questions. He
18 said, I have been fully informed of everything that's
19 going on -- now because he was a Trustee-elect -- and I
20 am in the loop and they're informing me of what's going
21 on, is what he said.

22 Q Okay. So is that statement -- in your opinion
23 making that statement at the Future Planning Committee
24 meeting a violation of the Sunshine Law?

25 A I don't know that the statement is, but the

1 fact that he was involved and knew and had all this
2 information that was not public to anyone else I
3 thought was a violation, yes.

4 Q But you're assuming that.

5 A He said that. He -- he told us what it was,
6 he told us how it came about, he gave us information.
7 I believe it.

8 Q So can you swear that the circumstances under
9 which Mr. Durrin came in possession or had knowledge of
10 this budget questionnaire was a result of a violation
11 of the Sunshine Law?

12 MR. HENNESSY: Objection, form of question.

13 THE DEPONENT: He told us he was in the loop
14 and being informed. He told us that. I believed
15 him.

16 BY MR. SHULTS:

17 Q All right. Can you swear that Mr. Durrin
18 being in the loop and being informed was a result of a
19 violation of the Sunshine Law?

20 MR. HENNESSY: Objection to form of question.

21 THE DEPONENT: There was no public discussion
22 on this budget questionnaire.

23 BY MR. SHULTS:

24 Q All I'm asking you is -- you're under oath
25 here today and I'm just asking, and if you can't -- or

1 if you don't know or whatever, just -- you can indicate
2 that, but I'm -- I'm asking you is can you swear that
3 Mr. Durrin's -- let me begin another question.

4 Can you swear that Mr. Durrin's statements
5 that you've already testified about at the Future
6 Planning Committee meeting and his knowledge that he
7 conveyed to you at the Future Planning Committee
8 meeting was a result of a violation of the Sunshine Law
9 by him?

10 MR. HENNESSY: Objection. Tom, she's here
11 under oath, so everything she's doing is swearing
12 to tell the truth. You're -- you're -- you're
13 asking the question and then you're asking it four
14 different times, four different ways in an
15 argumentative and frankly an harassing manner.
16 She's given you the answer, and the answer remains
17 the same every time she -- you ask it. We're not
18 going to go through every question that you have
19 four to eight times hoping you get her to back off
20 her answers.

21 I'm going to make that objection, and if the
22 behavior continues, then I'm going to instruct her
23 not to answer.

24 BY MR. SHULTS:

25 Q Would it be fair to say that you don't know if

1 **Mr. Durrin violated the Sunshine Law?**

2 MR. HENNESSY: Objection.

3 THE DEPONENT: I -- I --

4 MR. HENNESSY: Asked and answered.

5 THE DEPONENT: (Shakes head from side to
6 side.)

7 BY MR. SHULTS:

8 **Q Would that be fair to say that you don't know**
9 **that -- whether Mr. Durrin violated the Sunshine Law?**

10 A I'll tell you what I think is a fair answer.
11 How about that?

12 The fair answer is it had not been discussed
13 in a public meeting. The reasonable person would have
14 to draw the conclusion he got the information from
15 someone; it was not Future Planning.

16 **Q If Mr. Durrin received this budget**
17 **questionnaire information from somebody who was not a**
18 **Trustee or a Trustee-elect, would that in your opinion**
19 **have been a violation of the Sunshine Law?**

20 A Not if he received it in some other manner.

21 **Q Do you know how he received it?**

22 A He said he was being -- he was in the loop and
23 being informed of everything that was going on now with
24 the Board is what he said. I can only tell you what he
25 said.

1 **Q** But you don't know who was informing him;
2 **correct?**

3 MR. HENNESSY: Objection, asked and answered.

4 BY MR. SHULTS:

5 **Q** Do you? Do you know who was informing him?

6 MR. HENNESSY: Objection; same objection.

7 THE DEPONENT: He said -- one more time, he
8 said, I am in the loop, I am being informed of
9 everything that's coming through for the Board. He
10 said that.

11 BY MR. SHULTS:

12 **Q** Okay.

13 A I believed him. I had no reason to challenge
14 him or threaten him, I -- I believed him.

15 **Q** All I'm asking you is --

16 MR. HENNESSY: And we've -- we've all --

17 BY MR. SHULTS:

18 **Q** -- do you know --

19 A I've answered you.

20 **Q** -- do you know who was informing Mr. Durrin?

21 MR. HENNESSY: Objection.

22 THE DEPONENT: I can only tell you the people
23 that were -- that were involved in the
24 questionnaire according to Martha, and that was
25 Mrs. Brauer, Janet Jones, Joe Salerno.

1 A My belief is based on listening to meetings,
2 going to meetings, watching meetings, reading Minutes;
3 they -- the budget questionnaire's a real good example
4 I think of -- of things appearing that have not been
5 discussed, and you get into the Board meeting, you read
6 the Minutes, you -- you sit there and you listen to the
7 comments back and forth from the Trustees about -- the
8 budget questionnaire is a real good example. If you go
9 through the Minutes, you will see where it was
10 discussed; Janet Jones was involved in the discussion,
11 Joe Salerno was involved in the discussion in the --
12 according to the Minutes of the meeting.

13 I don't know when they had the meeting, I
14 don't know where they had the meeting, I have no idea,
15 but they said they had a meeting if you read the
16 Minutes, so I believe them.

17 **Q What Minutes are those?**

18 A Of the -- of the Board of Trustees. December
19 1st, if you read the Minutes of the meeting there was
20 no discussion of a budget questionnaire. Then you go
21 forward from there and when it comes before the Board,
22 there's -- Martha explains that Janet came to her and
23 asked her to do this and then she showed it to Joe, and
24 then Joe gave her some feedback on changing the
25 questions, and then John gets into the discussion in

1. the -- it's all in the Minutes of your meetings. And
2. I'll be glad to provide you the dates. I don't have
3. them off the top of my head.

4. **Q** Thirty-seven (b), you -- there is a statement
5. that the Executive Committee's selection of individuals
6. to serve on the Board to fill vacant positions violated
7. the Sunshine.

8. **What individuals are you referring to?**

9. **A** Tom Featheringill, Mike Neal. Peg Durham was
10. another one, but it was longer ago.

11. **Q** Do you have personal knowledge of any
12. Executive Committee meeting where the Executive
13. Committee allegedly selected the individuals you just
14. named to be on the Board?

15. **A** I only -- I only have the documents the Board
16. has produced as public record to rely upon. I have
17. to --

18. **Q** Can you remember what document you're relying
19. upon?

20. **A** Their Executive Committee Minutes for those
21. particular meetings.

22. And again I -- I -- remembering dates --
23. specific dates, I'll -- I can get them for you.

24. **Q** All right. So there were Minutes of this
25. meeting.

1 **And starting with Paragraph (p) on Page Nine, let me**
2 **know when you're there.**

3 A Okay.

4 **Q Paragraph (p) references a -- references**
5 **meetings held in December of '08 between certain**
6 **individuals. Do you see that?**

7 A Yes.

8 **Q Do you have any personal knowledge of that**
9 **meeting?**

10 A No.

11 **Q Where did you get the information in order to**
12 **make this allegation in Paragraph (p)?**

13 A That goes back to the Future Planning meeting
14 when the survey -- the budget questionnaire was brought
15 in to Future Planning by the liaison and we had an
16 opportunity to look at it, that's the first time I had
17 seen it, or heard about it; there was no discussion on
18 the Board preparing a survey or the need for a survey.

19 **Q And that's what you base your allegation in**
20 **Paragraph (p) on?**

21 A No. It goes further into the Minutes of the
22 meeting where the discussion between the Trustees
23 outside of the meeting is discussed in the Minutes of
24 the meetings.

25 **Q So the Minutes of the FPC meeting in December**

1 of '08 would reflect further information that gives you
2 a basis for the allegations you made in Paragraph (p)?

3 A No, that's not what I said. The Board of
4 Trustees Minutes would reflect that.

5 Q Of December of '08?

6 A Yes. And it goes into January of '09.

7 Q And the -- now Martha Brauer was elected to
8 the Board in December of 2008; correct?

9 A That is correct.

10 Q Prior to December -- when was the election, do
11 you remember the day?

12 A I want to say it was December 2nd, but I
13 could --

14 Q All right.

15 A -- be wrong, but I believe that was the date.

16 Q But prior to December 2nd, 2008 -- well, let
17 me reword the question.

18 Prior to her actually winning the election to
19 the Board in December of 2008, she was not a Board
20 member; was she?

21 A No.

22 Q So there wouldn't have been anything
23 inappropriate in terms of a discussion between Brauer
24 and Jones, would there, prior to her being on the
25 Board?

1 A I -- prior to her being on the Board, if a
2 committee -- I don't -- it appeared to be a committee,
3 I don't know; the discussion took place at some time
4 and it could have been after -- there was -- December
5 1st at the Board meeting there was no discussion, nor
6 had there been about a budget questionnaire.

7 Q My question is prior to Brauer being a member
8 -- being elected to the Board, there wouldn't be
9 anything inappropriate about her having a discussion
10 with Jones regarding Trailer Estate matters.

11 MR. HENNESSY: Objection, form.

12 BY MR. SHULTS:

13 Q Would there?

14 A Yes, there could be, if she was use -- being
15 -- if she was going, and it appeared she was, between
16 Mrs. Jones, John and Joe Salerno, that would be
17 inappropriate.

18 Q Okay, you --

19 A But I don't know if the actions occurred
20 before she was elected or after because it was not made
21 public.

22 Q Well, you don't even know if that occurred.

23 A I -- it's in the Minutes of the meeting.

24 Q Of the Board meeting you're --

25 A Of the Board of Trustee meeting, yes.

1 It's in the Minutes of the meeting.

2 Q All right. So the Minutes indicate that the
3 discussion that Brauer had with Salerno occurred after
4 she was elected?

5 A My -- the basis of what I'm telling you and
6 what I'm -- what I'm -- what we're doing here, up until
7 December 1st at a Board meeting this budget
8 questionnaire had never been mentioned. Future
9 Planning was working very hard on a survey to get it
10 turned in to the Board. And all of a sudden out of
11 nowhere comes a budget questionnaire or survey -- and
12 again it's interchanged in the Minutes of the meetings,
13 it's kind of hard sometimes to follow which thing we're
14 talking about -- appeared a -- a document that was
15 going to be sent out to all the owners in the park.
16 Martha -- when she made her presentation to the Board,
17 Martha said that this is how it was going to be used
18 and it was to get a snapshot so that the new Trustees
19 would -- would know what the people wanted; that was
20 kind of the verbiage in the Minutes of the meeting.
21 You'll have to read them, I -- I can't recite them
22 verbatim. And based on what I heard in the meetings
23 and the lack of any information prior to -- no -- the
24 Board didn't say, okay, I think we need to get a
25 certain -- we need to get a little more information,

1 us that he was -- that he was being updated on
2 everything going on with the Board.

3 **Q Well, now that was --**

4 A John --

5 **Q -- at a Future Planning Committee meeting.**

6 A And -- and Bob was in -- I don't have a Bob.
7 Not in 2009.

8 Joe (sic) Vander Molen, Joe Salerno, Gail
9 Oppen, Fred Hoch -- there were discussions between Fred
10 Hoch and John Vander Molen that I observed in 2009,
11 discussion between John Vander Molen and Joe Salerno
12 that I observed, Martha Brauer and Fred Hoch that I
13 observed.

14 Martha would have been with Harry. I did not
15 observe that, I observed -- I -- I overheard her
16 describing the meeting.

17 The litigation, Gail Oppen, that was in a
18 public meeting where Mrs. Oppen came in and said she'd
19 just received this from Mr. Barnebey telling the cost
20 of the -- it was -- in fact it was a budget hearing,
21 and went into great detail; had a slide presentation
22 sort of ready to show us what this was going to be.
23 When she got all through she -- she had said she was
24 sorry she couldn't get it out, there was no time to
25 call a special meeting, and went into great detail. No

1 one -- the Treasurer hadn't seen this, they didn't know
2 what -- but at the end Mrs. Opper said, yes, I've
3 agonized over this all weekend and I don't believe that
4 we have to stick to this because just because they want
5 that money doesn't mean you can't negotiate; when you
6 go to buy a car, because they tell you it's twenty-five
7 thousand doesn't mean that's what it is, and she
8 announced that she was going to meet with the attorneys
9 and she was going to negotiate a better deal.

10 **Q Now all this was said outside of the public**
11 **meeting?**

12 A She said this in a public meeting.

13 **Q All right. Well --**

14 A But she did -- was not -- they all said they
15 didn't have this information prior to that minute they
16 walked in, but Mrs. Opper said she had it on Friday.
17 She had it over the weekend.

18 **Q The -- all right. Well, let's take them one**
19 **at a time here.**

20 A Okay.

21 **Q I think you said -- when did these -- is there**
22 **just one instance in January of 2009 where you**
23 **witnessed what you thought was a violation of Sunshine**
24 **Laws with your own eyes?**

25 A Well, it'd been Gail --

1 **Q Let me do --**

2 A -- Fred, John, Joe, Martha. No, most of them
3 were in 2009. The Website Committee, we've already
4 talked about that. The Audit Committee was another --
5 where the meetings were not properly noticed with two
6 Trustees on Board.

7 Mr. Salerno had prepared a document with loan
8 interest rates that was -- and said that John had more
9 information for them. That's a document.

10 **Q Let me refer you to Exhibit Two, your**
11 **Interrogatory Answers?**

12 A Okay.

13 **Q Look at Question Number Two.**

14 A Okay.

15 **Q And look at your response regarding January of**
16 **2009.**

17 A Yes.

18 **Q Okay. In Question Number Two, I ask you to**
19 **list all Sunshine Law violations that you yourself**
20 **witnessed; correct?**

21 A Yes.

22 **Q Okay. And you list three instances, all on**
23 **January 27th, 2009.**

24 A Right.

25 **Q Correct?**

1 Q -- under Question Three?

2 A Yes.

3 Q You say Brauer and -- is it, "Hock," or,
4 "Hoch?"

5 A "Hock," he pronounces it.

6 Q Okay. Brauer and Hoch discussing the Board
7 agenda.

8 A Yes.

9 Q You heard this with your own ears?

10 A Yes.

11 Q What did you hear them say?

12 A I came around the corner, they were standing
13 by the bulletin board. We were going into the office,
14 and they were standing by the bulletin board and Fred
15 -- Fred said, but it's on the agenda for Monday. And
16 Martha at that time saw me and she started motioning to
17 Fred and telling him to, shh, shh, shh, and Fred
18 stopped. I proceeded into the office. I waited a few
19 minutes and had to go back out, I discovered I'd left
20 something in the car and started back out and I could
21 observe them out in the -- where they had been when I
22 went in, and they were still in -- in conversation.

23 When I went out and they saw me, they stopped
24 again. I went to the car, came back, they stopped
25 again and I went back in.

1 Q Anything else?

2 A No.

3 Q So the only thing you heard in terms of being
4 discussed between Brauer and Hoch was what you just
5 told us --

6 A Yes.

7 Q -- that Hoch said?

8 A Yes.

9 Q Okay. Let's go --

10 A He said, but it's on the agenda for Monday is
11 what he said.

12 Q Okay. Let's go down to the next one where you
13 say Vander Molen and Hoch discussing ARC business,
14 paren, permits.

15 A Permits, that's correct.

16 Q All right. Tell me what you heard.

17 A I came in the office that morning and I had to
18 go past Fred who was in the hallway with a lady, and I
19 didn't recognize her, but he had an ARC permit in his
20 hand, and he was talking to her. And I didn't pay that
21 much attention, I went past her and went in and sat
22 down and started doing what I'd been asked to do. John
23 Vander Molen came in in just a few minutes and walked
24 over to Fred, and Fred had the permit still in his hand
25 and he showed it to John, and he said the lady's name

1 Q You --

2 A And I never saw it discussed again.

3 Q You saw at what meeting?

4 A The workshop.

5 Q All right. You -- there was a workshop that
6 you attended where Vander Molen discussed withholding
7 publication of articles?

8 A I was not there, I saw the -- the video of it.

9 Q All right.

10 A I was not in -- I was not in Florida at the
11 time.

12 Q Was that -- was that notice -- was that
13 meeting noticed?

14 A The meeting was noticed.

15 Q All right. So a -- and Mr. Vander Molen held
16 a -- wasn't he the Trustee in charge of -- what was it
17 back then, Recreation or what was --

18 A No, he wasn't.

19 Q Or Maintenance?

20 A No, he wasn't.

21 Q What was he?

22 A He was Maintenance.

23 Q Maintenance?

24 A Yes.

25 Q Do you know where the Tribune falls under,

1 **under who -- under what Trustee?**

2 A You know, that's a good question. I've asked
3 that over and over and over and over, and no one can
4 give me an answer.

5 **Q Uh-huh.**

6 A No one knows who's in charge of the Tribune.

7 **Q Do you know who edits it?**

8 A Oh, absolutely not.

9 **Q Uh-huh.**

10 A I've asked that repeatedly. I've asked for a
11 copy of the policy on numerous occasions. I've asked
12 for a cop -- I've gone to the Board meetings and asked
13 who's the editor, what are the rules, how -- I -- I'm
14 writing these articles and I would like to have the
15 rules if you're going to keep pulling them.

16 The article was -- incidentally was simply on
17 the Privacy Act and stated the Department of Justice as
18 a reference.

19 **Q You wouldn't have any problem with somebody**
20 **exercising editorial control over the Tribune; your**
21 **problem is that it is not being done in the Sunshine.**
22 **Is that what you're essentially saying?**

23 A My -- I'm saying that policies and procedures
24 put into place I have no problem with. I have a
25 problem with a meeting where one thing is said and then

1 I get a letter where they say the Board has decided.
2 Well, it wasn't at the meeting I saw, so I believe a
3 violation occurred.

4 **Q All right. How many Board meeting videos did**
5 **you review in order to determine that no decision was**
6 **made by the Board to deny publication?**

7 A The publication -- it did not appear in the
8 Tribune. I don't know that you need much more than
9 that.

10 **Q No, I -- I'm saying that you -- you -- you say**
11 **that you were out of town while this was occurring.**

12 A Yes.

13 **Q Correct?**

14 A Yes.

15 **Q So how do you know that the Board did not**
16 **discuss your article and make a decision to deny**
17 **publication?**

18 A Does not show up in the Minutes, and I watch
19 the videos even when I'm not in Michi -- in Florida.

20 **Q How do you get the videos?**

21 A We have a website of a resident that puts them
22 up there. We can view them from any place.

23 **Q So all videos of all Board meetings are posted**
24 **by this resident?**

25 A By the resident, yes.

1 during this committee meeting in Paragraph (w) were
2 discussed again at a public Board meeting; you don't
3 know?

4 A The plan that came out of that -- Martha was
5 part of the meeting. The plan that came out of that
6 was what came before the Board.

7 Q Okay.

8 A That's what they said; that's what Mary Lou
9 McNulty said, that's what's in the Minutes of the
10 meeting.

11 Q All right. So as far as you know, the plan
12 that came out of the Disaster Committee meeting that
13 you've alleged in Paragraph (w) was discussed and voted
14 on at a later Board meeting; is that what you're --

15 A Yes.

16 Q -- saying? Okay.

17 Let's go down to Paragraph (x). In X you say,
18 The determination of Board members of Vander Molen,
19 Salerno in April 2008 regarding the distribution of the
20 year-end financial report.

21 Let me refer -- before I ask you about that
22 paragraph --

23 A (Nods head up and down.)

24 Q -- let me refer you back to your Interrogatory
25 Answers if I can, because you do list an April 2008

1 event in your Interrogatory Answers. Are we -- is this
2 the event that's described in Paragraph (y)? No,
3 excuse me, in Paragraph (x)?

4 A Yes.

5 Q Okay. Did you -- tell me what you heard and
6 saw in April of 2008 between Vander Molen and Salerno.

7 A I walked into the office into the back where
8 Mr. Vander Molen and Mr. Salerno have their desks.
9 They were turned around in their chairs, they were
10 face-to-face and very deep in conversation and they had
11 the Charter in their hands. And they -- when I walked
12 up, they didn't see me until I was standing right there
13 and they were discussing whether or not they had to
14 send out the audit report separate from the budget, and
15 they were reading the Charter and they were discussing
16 back and forth on whether or not they had to do this,
17 because they thought that they could do it all in one
18 mailing and wouldn't have to send it out to the
19 residents other than once a year, and that discussion
20 was going back and forth.

21 When I -- when they saw me, Mr. Vander Molen
22 asked me, he says, well, what do you think? You read
23 -- what do you -- what does this say to you? And I
24 said, I didn't come here for that, I don't have my
25 glasses, I can't see it anyway and I came for another

1 purpose, I came to see Mr. Salerno, and I -- I have
2 nothing without reading it and I don't have time right
3 now, I came for another reason.

4 I thought about it for a few days and then I
5 wrote Mr. Salerno and Mr. Vander Molen a letter and
6 reiterated what had been discussed in this -- what I
7 had overheard their discussion and that -- and what my
8 opinion was of their discussion. I did delve into what
9 -- the question he had asked me, what I -- what my
10 opinion was of the section of the Charter they were
11 discussing, and then I said that I felt that their
12 discussion violated the Sunshine Law.

13 And I'm paraphrasing, I'm not reciting the
14 letter.

15 **Q So let me see if I understand the nature of**
16 **this conversation between Vander Molen and Salerno**
17 **correctly. They were looking at the Charter and trying**
18 **to determine whether they could mail out to the**
19 **residents the year-end financial reports along with the**
20 **proposed budget at the same time?**

21 A We don't send out the proposed budget. We
22 send out the budget.

23 **Q All right. Well, your Interrogatory Answer**
24 **says proposed budget.**

25 A It's the budget.

1 Q But mean to say in your Interrogatory Answer
2 the budget?

3 A Yes, the budget.

4 Q Okay.

5 A Should be the budget, proposed by -- it's the
6 budget.

7 Q It's the budget, okay. So Vander Molen and
8 Salerno -- correct me if I'm wrong -- the nature of
9 their conversation was whether under the Charter they
10 should send the financial report along with the budget
11 to the residents at the same time; right?

12 A That was the discussion.

13 Q And --

14 A The policy in existence was that they went out
15 separately within thirty days of their completion.

16 Q What about if they're both completed within
17 the same thirty-day period?

18 A They're not.

19 Q The -- so they were trying to determine
20 whether they could mail both out -- well, let me -- let
21 me stop right there.

22 At the time in April of '08 when Vander Molen
23 and Salerno were having this discussion, was the year-
24 end financial report completed and ready for mailing?

25 A That would have been completed by the end of

1 October, so they would have held it more than thirty
2 days by April.

3 **Q Okay. What about the budget, would that have**
4 **been completed?**

5 A In April, yes. The budget has to be approved
6 and in to the County by April 1st.

7 **Q Okay.**

8 A And the Charter says thirty days.

9 **Q Well -- so the year-end financial report --**
10 **when is the year-end?**

11 A September 30th.

12 **Q Okay. So the year-end financial report as far**
13 **as April 2008 occurs, the only one that was done was**
14 **the one that should have been done in 2007?**

15 A Right.

16 **Q Was it done in 2007?**

17 A The mailing? Yes.

18 **Q All right. So Vander Molen and Salerno, what**
19 **year-end financial report were they discussing, if you**
20 **know?**

21 A They -- I don't know, they -- it sounded to me
22 like a policy decision that they were trying to make,
23 not a specific we'll hang on to this one and mail it
24 here; it was a policy decision, because the policy was
25 already in place and the Charter already addressed it

1 and we were mailing them within thirty days of their
2 completion, both the budget at its completion and the
3 audit report at the -- at its completion.

4 Q Okay. All right. And did the -- did the
5 subject of the mailings and the timing of the mailings
6 of the financial reports and the pro -- and the budget
7 come before the Board after April of 2008?

8 A No.

9 Q So the matter that Vander Molen and Salerno
10 were discussing never came before the Board?

11 A It hasn't yet.

12 Q Okay. Well, is it on a -- an agenda as far as
13 you know?

14 A As far as I know, no.

15 MR. SHULTS: Okay.

16 All right. We're out of tape, so we'll take a
17 break.

18 THE DEPONENT: Okay.

19 THE VIDEOGRAPHER: We're going off the record;
20 the time is approximately 2:02 P.M.

21 (There was a brief break.)

22 - - - - -

23

24

25

1 confidence that Trustee McNulty will honor anything
2 that we do for this event from here forward," unquote.

3 That's a pretty strong statement; don't you
4 agree?

5 A Yes.

6 Q Were -- I mean, was your relationship with
7 Mrs. McNulty always on this level that's embodied in
8 this August 2008 letter?

9 A No.

10 Q Was it better or worse in the past?

11 A We didn't have a relationship at all. We had
12 a -- she was a Trustee and it was a professional --
13 there was no personal relationship.

14 Q Prior to you writing this letter, do you --
15 and I -- I know what the letter says, I mean --

16 A Uh-huh.

17 Q -- you're laying out why you -- why you're
18 resigning, but -- but prior to this letter of August of
19 2008, had you had any disagreements with Mrs. McNulty?

20 A No, there was no disagreement. I had -- a
21 part of the job of the C.E.R.T. team was to promote in
22 the Tribune, our little monthly paper, the fact that
23 that was coming, what we were doing. I -- I sent the
24 article to the Tribune and it was pulled at -- at the
25 direction -- according to TJ Miller, records keeper,

1 that was pulled and would not be published in the
2 Tribune; that Mary Lou from then on would be -- would
3 be going over the articles before they were published.

4 **Q Okay. Was that before or after Mr. Vander**
5 **Molen made a decision to pull an article?**

6 A This was after. Wait -- after -- April, May,
7 June of '08 -- I think it was before. June of '08.

8 I've got to look and see when -- when that
9 was.

10 **Q All right. So Mrs. McNul --**

11 A June -- I'm sorry.

12 **Q Okay. Let me show you what I've marked as**
13 **Exhibit Fifteen; it's a composite of two pages (handing**
14 **documents) of photographs that were taken here in your**
15 **lawyers' office.**

16 MS. BRAUER: (Handing documents to Ms. Cowan
17 and Mr. Turffs.)

18 MR. TURFFS: Thank you.

19 THE DEPONENT: Okay.

20 BY MR. SHULTS:

21 **Q Now do you recognize these as being the**
22 **videotapes that you delivered to your lawyers' office**
23 **in response to the Request for Production?**

24 A I know this page is (indicating), but the
25 writing is -- it's so faint I can't read it.

1 **improper contact between Ms. Jones, Mr. Salerno and**
2 **Ms. Brauer?**

3 A It is what I read in the Minutes of the
4 meeting. That is the document.

5 Q **So whatever the documents say, that's what**
6 **that relies upon?**

7 A That's correct.

8 Q **Now I could be wrong, but were there any other**
9 **allegations in here that you can think of that**
10 **specifically relate to my client, Mr. Salerno?**

11 A Not in the January through March context, no.

12 Q **And I'm asking in any other context from**
13 **December 2007 when he was elected to the Board through**
14 **today.**

15 A The Future Planning Committee meeting as I've
16 already discussed would have been another one that I
17 felt violated.

18 Q **And what happened at that meeting, if I'm not**
19 **mistaken, was Mr. Salerno attended apparently at**
20 **someone's request; correct?**

21 A The Future Planning Chairman invited the
22 Trustees to come to the meeting.

23 Q **Okay. And what Trustees were at that meeting?**

24 A I'd -- I would -- I would prefer to look at my
25 Minutes, but off the top of my head, Fred Hoch was

1 there, Peg Durham was there, Joe Salerno was there,
2 Harry Fitzpatrick, Bob Durrin, Fred Hoch. And then the
3 liaison of course, Bruce Smith.

4 **Q And who was the Chairman of that committee**
5 **that sought their attendance?**

6 A John White.

7 **Q Was that committee -- was that a noticed**
8 **meeting?**

9 A It was not noticed in the newspaper; it was
10 noticed on the bulletin board, on Channel 95 and in the
11 normal appropriate places in the park, but it was not
12 appropriately noticed for them to be discussing
13 business.

14 **Q And tell me specifically what happened, did**
15 **some of the Trustees respond to questions?**

16 A They responded to questions, they talked among
17 themselves, they discussed different aspects of what
18 was being done.

19 **Q Well, when you say, "talked among themselves,"**
20 **it sounds like you're implying that somehow they got**
21 **together in a little group and talked. Did they talk**
22 **in this open forum?**

23 A Yes.

24 **Q So when you say, "among themselves," if they**
25 **spoke, they spoke at this group meeting so everybody**

1 **there could hear them?**

2 A Right, they were speaking to each other, yes.

3 **Q And do you recall anything that Mr. Salerno**
4 **specifically said?**

5 A They were -- in the Activities part of it, he
6 had some recommendations, and incidently some very good
7 ones for things he would like in the survey, things
8 he'd like taken out. The fifty-five and older status
9 was discussed at that meeting and Mr. Salerno wasn't
10 aware that Ruden, McClosky had directed us to do the
11 fifty-five and older surveys as we were supposed to be
12 doing and I had some Minutes of the meeting, those were
13 passed around. They discussed that back and forth, the
14 fifty-five and older status --

15 **Q Who's, "they?"**

16 A -- and the requirements.
17 Harry and Joe.

18 **Q And other members of --**

19 A And other members, yes.

20 **Q Of -- of the committee, or only of the**
21 **Directors?**

22 A Of the -- of the committee -- what -- what we
23 were trying to do is incorporate -- offer the Board of
24 Trustees -- when we did this door-to-door survey of the
25 park for the recreation, at the same time ask the park