

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

- - - - -X
 :
 MARY LOU SMITH, an individual, and :
 SHARON DENSON, an individual, :
 :
 Plaintiffs, :
 : DEPOSITION OF
 vs. :
 : MARTHA BRAUER
 TRAILER ESTATES PARK AND :
 RECREATION DISTRICT, an :
 independent special taxing district, :
 JANET JONES, an individual, :
 JOHN VANDER MOLEN, an individual, :
 JOSEPH SALERNO, an individual, and :
 MARY LOU McNULTY, an individual, :
 :
 Defendants. :
 :
 - - - - -X

TAKEN BY: THE PLAINTIFFS HEREIN

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

 DATE: May 20, 2009
 Commencing at 9:15 A.M.

 PLACE: KIRK PINKERTON, P.A.
 1301 Sixth Avenue West
 Suite 401
 Bradenton, Florida 34205

1 matters," could you be more specific? Or do you
2 want me to answer to the broad general term?

3 BY MR. HENNESSY:

4 Q Well, I guess you've referred the term,
5 "administrative matters."

6 A Uh-huh.

7 Q When you used the term, "administrative
8 matters," were you referring to administrative matters
9 related to the District?

10 A Yes.

11 Q Okay, all right. Explain to me when you have
12 called a meeting with another Trustee to deal with
13 administrative matters.

14 MR. CARROLL: Object to the form.

15 MR. SHULTS: Object to the form.

16 BY MR. HENNESSY:

17 Q Or let me correct it then.

18 Explain to me what you meant by meeting with
19 another Trustee regarding administrative matters.

20 A Bob Durrin in the office would say to me,
21 Martha, I want to put something on the agenda. I would
22 say, Bob, do you know how to fill out PP-34, have you
23 filled one out before? Yeah. Do you need my
24 assistance in filling it out? Bob was sick. Yes.
25 Okay, let me help you fill out the form. So we would

1 -- PP-34 form is the form that we utilize to put an
2 item on the agenda.

3 So I said, What is it you want to bring up?
4 He said, committees; and I wrote the word,
5 "committees." I wrote the -- put the X whether it was
6 a workshop or a meeting. I believe I wrote the date.

7 There's a section for the rationale. I
8 believe he filled -- you know, we -- I with him filled
9 out the form.

10 **Q Okay. How often would that occur?**

11 A With Bob?

12 **Q Well, yes.**

13 A Okay. With Bob, just once.

14 **Q Okay. Where did that occur?**

15 A Between our two desks.

16 **Q Okay.**

17 A His is in one part of the office, mine's in
18 another. So the conversation was at his desk; then I
19 came to the main office to get the form. I believe he
20 then came to my desk to fill it out.

21 **Q Okay.**

22 A And then I believe he took the form to sign
23 it, and then I take it off the hook or TJ takes it off
24 the hook and has me sign it later on in the week when
25 it needs to actually be attached to the agenda.

1 **Q** Okay. And that's -- by signing it, that's
2 your responsibility to -- as Chairman to okay anything
3 being put on the agenda?

4 A I'm not okaying it, that's not my
5 responsibility, but I'm signing -- it's a -- it's a --
6 it's initialing it that it was received. It's not an
7 okaying.

8 **Q** Okay, all right. So merely by filling out the
9 form means that it will get on the agenda?

10 A I believe the intent of the policy was that --
11 and the bylaws was that the -- any Trustee can bring
12 any matter before the Board, and the policy requires
13 them to fill out that form.

14 **Q** So they don't need your approval?

15 A No, they do not need my approval.

16 **Q** Or the Chairman's approval?

17 A No. But I do sign the form; there's a spot to
18 sign the form.

19 **Q** Well, what happens if you don't sign the form?

20 A TJ calls me on Wednesday morning --

21 **Q** Uh-huh.

22 A -- and says, I have a form; and I say, put my
23 initials on it.

24 **Q** So you've never not signed a form?

25 A Never not signed a form.

1 **Q** **Okay. Bob Durrin I take it is a current**
2 **Trustee?**

3 A He's passed away.

4 **Q** **Oh. When did that --**

5 A Durrin is --

6 **Q** **When did that occur?**

7 A Just -- I want to say late March, but I can't
8 -- I can't be exact.

9 **Q** **But at the time of this discussion, he was a**
10 **Trustee?**

11 A Yes.

12 **Q** **Okay.**

13 A Yes.

14 **Q** **Give me other examples of conversations you've**
15 **had with Trustees on what you refer to as**
16 **administrative matters.**

17 A Conversations with John Vander Molen. When I
18 got ready to go to a meeting one day and happened to
19 turn on the computer and saw that our -- we were locked
20 out of our website and there was an announcement on it,
21 I called John, said I might be late for the meeting, I
22 want to at least do a little research on this; and he
23 said, you know, we can do it after the meeting, come to
24 the meeting.

25 I would call John when there was a public

1 before I leave town to schedule some volunteers to
2 assist in the secretarial duties.

3 **Q When did this occur?**

4 **Or I'm sorry, never mind.**

5 **So what was -- what was said?**

6 A Gail informed me when she was leaving; said
7 that she had two women that had signed volunteer forms
8 to assist in the taking of the Minutes and the
9 publication of the Minutes for the meetings while she
10 would be gone this summer. She wanted to know what the
11 procedure or practice was. So it took a few meetings
12 in order to come to a -- a final decision on this as I
13 wanted to research what had been done in the past when
14 individuals were gone. So the discussion was mainly
15 involving what had been done in the past, how we were
16 going to make it work now, what the volunteers were
17 willing to do, so she had to go and meet with them and
18 then come back and report to me; I had to meet with TJ
19 and find out what has been done in the past; I also met
20 with TJ and Jane to find out how we could make this
21 work.

22 **Q So were ultimately I guess assistant**
23 **secretaries identified?**

24 A Yes, the -- in the end, we identified two
25 volunteers who would assist by attending the meetings,

1 taking the Minutes and typing the Minutes and providing
2 the first draft -- or the draft to the office.

3 Q And who are these two individuals?

4 A Connie Zack and Lenora Neal.

5 Q Did you have meetings with these individuals?

6 A No, I did not.

7 Q Okay. Did Gail Opper have meetings with these
8 individuals?

9 A I believe she did.

10 Q And to your knowledge were these meetings to
11 discuss the services these assistants would provide?

12 A Yes.

13 Q Have either of these assistants performed
14 these functions yet?

15 A Yes.

16 Q They've attended recent Board meetings?

17 A Yes.

18 Q Taken Minutes?

19 A Yes.

20 Q Did these individuals -- were they ever
21 nominated to the Board to be these assistants and --
22 and their nominations approved?

23 A No.

24 Q Ms. Zack or Ms. Neal, have they had
25 discussions with other Board members about the services

1 **that they're providing?**

2 A I would not have knowledge of that.

3 **Q Are there any other meetings you've had with**
4 **Trustees that you believe were with regard to**
5 **administrative matters?**

6 A Yes.

7 **Q What other meetings?**

8 A Harry Fitzpatrick.

9 **Q Is he a current Board member?**

10 A Yes.

11 **Q When did you have meetings with**
12 **Mr. Fitzpatrick?**

13 A By phone, or in person?

14 **Q Let's start with by phone.**

15 A January 2nd.

16 **Q What was the purpose of that phone call?**

17 **And --**

18 A He --

19 **Q -- that's '09, I assume?**

20 A Yes, January 2nd, '09. I returned his call,
21 he left a message on my answering machine. And the
22 purpose was I called him to find out what he wanted to
23 say to me.

24 Do you want me to go further into depth?

25 **Q Yes, ma'am.**

1 A He told me that he had a letter of resignation
2 prepared to turn in to me. Because of physical
3 difficulties he had, he didn't feel he could fulfill
4 the position that I had assigned to him earlier that
5 day.

6 **Q What duties had you assigned to him?**

7 A Continuing Recreation Trustee.

8 **Q And what did he tell you was the reason he
9 couldn't fulfill those responsibilities?**

10 A Physical difficulties.

11 **Q His physical condition?**

12 A His physical condition, yes.

13 **Q What did you tell him with regard to his
14 request to resign?**

15 A I asked him if he would give me a week to
16 analyze the duties, and if I could meet with him at the
17 end of the week and if we could break it down in such a
18 way that volunteers could assist him and that he could
19 remain as Trustee.

20 **Q And did you do that?**

21 A Yes, I did.

22 **Q So you had a subsequent meeting with him?**

23 A Yes.

24 **Q Was this in person?**

25 A Yes.

1 Q When did this occur?

2 A Seven days later.

3 Q Where did it occur?

4 A In the District Office.

5 Q During that time, did you speak to other
6 Trustees about Mr. Fitzpatrick's request?

7 A Other Trustees --

8 Q Yes.

9 A -- spoke to me.

10 Q Okay. Which Trustees spoke to you?

11 A Bob Durrin.

12 Q Who else?

13 A He's the only one I -- I recollect a specific
14 statement to me.

15 Q Uh-huh. What did --

16 A But I believe it was more than one.

17 Q Okay. What do you recall Mr. Durrin telling
18 you?

19 A I heard Harry might be quitting.

20 Q And what did you tell him?

21 A I've heard that al -- I said, I've heard that
22 also, I'm working on it.

23 Q Okay. So when you had your second meeting
24 with Mr. Fitzpatrick at the District Office, where did
25 that -- what was discussed?

1 A How he could function in the capacity of the
2 Continuing Recreation Trustee. Do you want details?

3 **Q Yes, ma'am.**

4 A Okay. In conducting Bingo, which is a
5 function of the Continuing Recreation Trustee, on
6 Sunday and Wednesdays, you open up the -- the Large
7 Hall is open, but you go to the back of the Large Hall.
8 Bingo is conducted at the front. The storage of the
9 equipment is in the back. You walk the full distance
10 of the Large Hall, you unlock some very heavy cupboards
11 and you pull out all the equipment and put it on a
12 rolly cart. You roll it up to the front and bring it
13 up to the table. At the table then there are what I
14 call chairs, Chair One, Chair Two -- there's five
15 chairs, and different volunteers assist the Trustee by
16 sitting in these five chairs and performing particular
17 functions related to Bingo.

18 **Q Okay.**

19 A So I met with him, we broke it down -- I'm a
20 Special Ed. teacher.

21 We broke it down as to what the current
22 Trustee was doing. I went and did Bingo two times.

23 **Q Uh-huh.**

24 A Watched -- I had called the current Trustee, I
25 asked her -- the one that had resigned or ended her

1 year, I asked --

2 **Q Who is that?**

3 A Margo Cushman.

4 **Q Okay.**

5 A I asked her if she would run Bingo for one
6 more week and if she would ask her volunteers that she
7 had assist her come; and she said, no, I won't ask
8 them, you may call them. So I called her volunteers,
9 they all agreed to come, and I went through Bingo on
10 Sunday and Wednesday. Sunday I watched her, Wednesday
11 I did it myself.

12 **Q Okay.**

13 MR. SHULTS: Okay. We've been at it for about
14 an hour and five minutes. Why don't we take a
15 five-minute break, please.

16 MR. HENNESSY: Can we just finish this Bingo
17 night discussion?

18 MR. SHULTS: Oh, how many more questions do
19 you have?

20 BY MR. HENNESSY:

21 **Q Well, when I said actually that I wanted the**
22 **details, I wanted the details of your conversation with**
23 **him.**

24 A That's what our conversation was about, how
25 each chair functioned and how --

1 **Q** When you say, "chair," do you mean chair at
2 **Bingo?**

3 A Chair in the volunteer table.

4 **Q** **At Bingo?**

5 A Like a -- at Bingo.

6 **Q** **Okay.**

7 A What each person had to do and how his
8 limitations would -- would -- how his abilities would
9 allow him to sit in which particular chair so that he
10 could actually perform the functions of Bingo and how
11 we could get other people, volunteers to fulfill the
12 other positions.

13 MR. SHULTS: Okay. Let's take a five-minute
14 break.

15 MR. HENNESSY: I -- I'd like to just finish
16 this off, if you don't mind. Thank you.

17 MR. SHULTS: I don't know how long -- how much
18 longer you're going to go.

19 MR. HENNESSY: I think that this topic will
20 take another five minutes max.

21 MR. SHULTS: Okay, go.

22 MR. HENNESSY: Thank you.

23 BY MR. HENNESSY:

24 **Q** **So you had this conversation with him in the**
25 **office about responsibilities, you made suggestions to**

1 **him about the responsibilities that he could delegate**
2 **to others?**

3 A I made -- I assisted him in determining which
4 chair he could sit in in order -- so that he could
5 provide -- he could be the Trustee that was the
6 Continuing Recreation Trustee that had Bingo
7 responsibilities.

8 **Q Okay. And how he could delegate**
9 **responsibilities to volunteers?**

10 A Yes.

11 **Q Okay.**

12 A I guess you could say it that way.

13 **Q Did you reach an agreement as to his ability**
14 **to do this?**

15 A Yes.

16 **Q And did he then choose to resign, or did he**
17 **withdraw his resignation?**

18 A He had never handed it in, so he chose to
19 remain in that position.

20 **Q Okay. And does he hold that position today?**

21 A No, he does not.

22 **Q Did you have another conversation with him**
23 **then about changing his position?**

24 A No, I did not.

25 **Q Did you just reassign him a different**

1 **position?**

2 A No, I did not.

3 **Q Okay. Who is -- holds the responsibility for**
4 **Recreation Chair currently?**

5 A Margo Cushman. Continuing Recreation, Margo
6 Cushman.

7 **Q Continuing Recreation. She's fulfilled --**
8 **she's a -- came back on the Board?**

9 A Yes.

10 **Q Okay. So what is Mr. Fitzpatrick's current**
11 **Trustee position on the Board?**

12 A Public Relations.

13 **Q And when did that occur, that change?**

14 A April -- a meeting early in April.

15 **Q And did the reassignment of responsibilities,**
16 **was that something that occurs pursuant to a Board**
17 **vote, or is it something that you decide and announce**
18 **at a Board meeting?**

19 A Responsibilities of assignment are based on
20 the Chairman; the Chairman assigns areas of
21 responsibility. His reassignment occurred because he
22 did subsequently quit the Board.

23 **Q Okay.**

24 A And then reapplied when there was a different
25 position open.

1 Q Okay, okay. So he came back on the Board
2 after Margo had filled his position on the Board?

3 A Yes, yes.

4 MR. HENNESSY: Okay.

5 All right. I think we're at a stopping point
6 if you'd like to take a break, for five minutes?

7 Is that what you're saying?

8 MR. SHULTS: Sure.

9 (There was a brief break.)

10 MR. HENNESSY: All right. Back on the record.

11 BY MR. HENNESSY:

12 Q We were talking about Mr. Fitzpatrick, that
13 you had a discussion with him about his resignation;
14 that you convinced him not to resign, but then I
15 understand that he in fact ultimately did resign?

16 A Yes.

17 Q When did he resign?

18 A I believe it was near the end of February.

19 Q Did you have any conversations with him before
20 he resigned in February regarding this resignation or
21 the actual resignation?

22 MR. CARROLL: Form.

23 BY MR. HENNESSY:

24 Q I'm just trying to distinguish this from his
25 first discussion about resigning.

1 A -- comment?

2 When I deal with administrative matters, I
3 generally deal with them over the phone or I deal with
4 them, you know, in the office if it's a timeliness
5 issue. Some administrative matters I don't bring up in
6 front of the Board. It just depends on if it's -- for
7 example, we were talking about how are we going to get
8 the Board bullets up on the Channel 95; that was
9 brought up at a Board meeting. It's not an action, it
10 was just how do we do this. It was brought up at the
11 Board meeting so it was discussed at the Board meeting.

12 So I -- administrative things I handle on a --
13 a -- the word I used was, "timeliness," but it --
14 more so it depends on -- administratively I handle items
15 in private with other Trustees. I don't bring it
16 before the Board because it's an administrative issue
17 of how to fill out a form, how they might need to get
18 their duties completed when they're away; for example,
19 Gail's recording secretary issues. Joe had a meeting
20 coming up on recreational round table. I had a
21 concern. I saw it posted, I called him up; I said,
22 Joe, by the way do you have a secretary, are you
23 planning to record Minutes, because you've invited the
24 whole park and I assume more than one Trustee will be
25 there. No, I haven't had a secretary -- I haven't, you

1 know, arranged for anybody to come and take Minutes. I
2 said, I believe Minutes need to be taken; I will call
3 Gail and see if she can do it, but in the future I'd
4 rather that you not use the Board secretary but, you
5 know, on your own recreational round tables you might
6 want to make your own arrangements.

7 You know, I didn't -- I didn't feel it was my
8 arrangement, but I felt -- my need, but I felt it was
9 my need to note -- to say to him when I saw this
10 meeting posted do you have a secretary to take Minutes.

11 So I used the word, "timeliness," and I'm not
12 sure, "timeliness," was the right word to use. I --
13 based on the situation administrative, I talk -- if the
14 administrative matter comes up while we're at the Board
15 meeting, I talk about it at the Board meeting; if the
16 administrative matter comes up and it's not -- it's
17 outside the Board meeting, I go ahead and talk about it
18 and -- because it's an administrative matter, unless I
19 see that I have six weeks in which to deal with it or a
20 long period of time and then I may not bring it up; I
21 may just write a note to myself to remind myself next
22 time I see this person be sure to, you know, straighten
23 that out or fix that or --

24 Q Okay.

25 A -- resolve that.

1 Q Well, with regard to your conversations that
2 you've had with Gail Oppen --

3 A Yes.

4 Q -- since she's been a Trustee, did you not in
5 fact have a conversation with her concerning a
6 complaint made against her involving Bev Lew and an
7 altercation between -- or not an altercation, but a
8 confrontation in a local -- either -- on the District
9 grounds in a local Publix?

10 A I did ask Gail about that.

11 Q Did you sit down and interview her in the
12 District Office?

13 A No, I did not.

14 Q How did you -- how did you discuss this matter
15 with Gail?

16 A She came in with her husband on a Friday
17 afternoon while I was there. I believe it was a Friday
18 afternoon; whenever it had occurred. Bev Lew had been
19 in earlier, had filed this -- had written something up.
20 I believe she had brought it in or -- I met with her --
21 Judy Riedel was there I believe. I can't remember if
22 they gave me the paper then or if the paper was the
23 next week, but I became aware of the matter. So when
24 Gail came in with her husband, I asked her a question
25 regarding an issue in Publix, and she said there was an

1 incident in which -- I -- something in which the --
2 there wasn't an incident involving a manager or a clerk
3 or anything like that and I -- I just said, okay, I
4 just wanted to know.

5 **Q So you asked Gail about the allegation of an**
6 **incident --**

7 A Yes.

8 **Q -- at Publix?**

9 A Yes, and --

10 **Q And this was, what, at the front desk or in**
11 **your office or --**

12 A No, just in that front opening area.

13 **Q Okay. Was there anyone else present?**

14 A TJ would have been there. I don't know if she
15 heard; she works in that office.

16 I believe Gail's husband -- they just walked
17 in and out; I mean, it was very short, just a question,
18 because I had had this individual from the District
19 come in and, you know, very strongly, strongly complain
20 about an issue with a Board member, you know.

21 **Q Okay. And so you informed Gail Opper that a**
22 **complaint had been made against her; and she, if I**
23 **understand you right, just denied that any incident**
24 **happened?**

25 A No, I didn't --

1 MR. SHULTS: Object to form.

2 BY MR. HENNESSY:

3 Q I may have misunderstood what you said.

4 A I just told Gail that I had heard from Bev Lew
5 that there had been a confrontation or an incident, I
6 don't know the exact words I used.

7 Q Uh-huh.

8 A And Gail said something to the effect of --
9 some -- she used the word, "manager," or, "clerk," you
10 know, there was no incident involving a manager or a
11 clerk or whatever, and I -- I left it at that at that
12 point because I had just had the conversation with Bev
13 Lew, you know, earlier that day and hadn't really
14 absorbed what my responsibilities were, if I had any
15 responsibilities; if I was entitled to even, you know,
16 probe a Board member in this way. I mean, I knew it
17 wasn't a Sunshine issue, I know it's not going before
18 the Board, it's not a matter before the Board, but I
19 hadn't assessed my realm of -- of responsibility
20 regarding that.

21 Q Okay.

22 A So I -- it just was a -- like a comment to
23 her.

24 Q Did you provide Ms. Opper with a copy of the
25 document Mrs. Lew filed with the District?

1 A No, I did not. And as I said, I'm not sure
2 that I had it at that time.

3 **Q Okay. Did you subsequently determine that you**
4 **-- you or someone needed to investigate the complaint?**

5 A I determined that it was not within my realm
6 of responsibility, or the District's.

7 **Q Okay. So no action was taken by the District?**

8 A Right.

9 **Q And the matter has never been raised in front**
10 **of the District Board?**

11 A Bev Lew mentioned it. She came to the -- to a
12 public meeting. And when she had been in my office on
13 that Friday, she had made a request that I want you to
14 deal with this matter and I'm going to have to publicly
15 say something to Gail. And I said, fine, you -- you're
16 entitled to public comment.

17 And so then when she did come to the meeting,
18 she did stand up at public comment and say, I don't see
19 me scheduled on the agenda, or something to the effect.
20 And I explained to her that I don't schedule -- you
21 know, I didn't schedule her on the agenda; I informed
22 her that she was allowed to say to Gail at public
23 comment what she needed to say, because she didn't
24 explain to me what she needed to say, she just said I
25 need to make a public comment to Gail and --

1 Q Okay.

2 A -- that was --

3 Q You mentioned something about Board bullets
4 discussed at the Board meeting, you adopted some --
5 first of all, what's a, "Board bullet?"

6 A A, "Board bullet," is a short, one line
7 description under each agenda item that I write
8 following a Board meeting.

9 Q Okay.

10 A It's then published on the website and
11 published on Channel 95 and now published in The
12 Tribune.

13 Q Okay. And so is there some policy that was
14 just adopted concerning publishing those Board bullets?

15 A A policy was not adopted.

16 Q Was there a discussion at the Board about
17 publishing Board bullets?

18 A Yes.

19 Q Okay. And was there a decision made by the
20 Board concerning publishing Board bullets?

21 A There's a -- a discussion, I wouldn't -- a
22 decision; they all concurred that they felt that we
23 should provide more information to our public, because
24 our Minutes are so long now. Our Minutes are six,
25 seven, eight pages and people don't want to work

1 through all the pages.

2 **Q Uh-huh.**

3 A So by -- during this discussion about how can
4 we communicate without requiring people to sit through
5 a six-hour meeting or six pages of Minutes, the Board
6 as a group determined that Board bullets would be
7 appropriate where you just take the agenda item and I
8 write a one statement objective regarding -- and this
9 is for both Board meetings and Board workshops --
10 regarding what transpired.

11 **Q Okay. So basically a synopsis of events, or a**
12 **shortening of events?**

13 A A short --

14 MR. CARROLL: Form.

15 THE DEPONENT: No. A one line statement of
16 what the Board -- what would be happening to that
17 agenda item.

18 BY MR. HENNESSY:

19 **Q Okay. Oh, so you're talking about before the**
20 **meeting? These Board bullets are before the matter**
21 **gets heard, like in connection with the agenda?**

22 A Okay. Items that are determined at a Board
23 meeting come to a workshop first.

24 **Q Okay.**

25 A Okay? For example, pool use, we had an

1 outside request for pool use. The agenda says -- for
2 the workshop says use of pool by outsiders, or
3 something like that.

4 **Q Uh-huh.**

5 A And it comes through the workshop, we all
6 discuss it and we get opinions, and if a motion is
7 going to be brought the next week or if further action
8 will be on it, I will state motion will be brought
9 forward, or further information needed, or item
10 withdrawn or something to that effect. So it's after
11 -- it's a Board bullet about what happened at that
12 particular workshop.

13 If it's a meeting Board bullet, it's more
14 specific; Board approved revised PP-21.

15 **Q Okay. And the Board bullets are now going to**
16 **be published in The Tribune, the website and the**
17 **Channel --**

18 A 95.

19 **Q Okay. And was there a vote in agreement to**
20 **that by the Board?**

21 A We didn't vote on it; we use discussed it at a
22 workshop and found that it was an avenue
23 administratively to inform the public more of what we
24 were doing.

25 **Q All right. Had you actually been doing it**

1 already?

2 A No.

3 Q Okay.

4 All right. Getting back to my question, did
5 you develop an organizational chart for the District?

6 A Yes, I did, as a part of the Policy and
7 Procedure Committee.

8 Q Okay, so before you were on the Board.

9 A Yes.

10 Q And had there been a prior organizational
11 chart?

12 A Yes.

13 Q So the organizational chart you prepared would
14 be a change to the existing one?

15 A Yes.

16 MR. HENNESSY: Let me go ahead and have this
17 marked, I guess it's Exhibit Two.

18 (Whereupon, Exhibit Number Two was marked for
19 identification.)

20 BY MR. HENNESSY:

21 Q Is this the draft organizational chart,
22 Exhibit Two, that you provide -- prepared?

23 A Could I ask you to clarify the word, "you?"

24 Q You, Martha Brauer.

25 A No.

- 1 **Q** **Okay. Who prepared it?**
- 2 **A** The full committee. I typed it.
- 3 **Q** **The Policies and Procedures Committee?**
- 4 **A** Yes.
- 5 **Q** **Okay. Who was on that committee?**
- 6 **A** Terry Neeley, Bob Durrin, Janet Jones.
- 7 **Q** **And this was in 2007, or 2008?**
- 8 **A** Yes.
- 9 **Q** **Both years?**
- 10 **A** Both -- the committee started in '07, and the
11 membership was renamed in '08.
- 12 **Q** **Okay.**
- 13 **A** Same members.
- 14 **Q** **Okay. At the time was Janet Jones a Trustee?**
- 15 **A** Yes.
- 16 **Q** **Was Bob Durrin a Trustee?**
- 17 **A** No.
- 18 **Q** **Were there any other Trustees other than Janet**
19 **Jones on the committee?**
- 20 **A** No.
- 21 **Q** **Did any other Trustees attend the meetings?**
- 22 **A** Yes.
- 23 **Q** **Which Trustees?**
- 24 **A** One Trustee came at the request of me.
- 25 **Q** **And which Trustee was that?**

1 A John Vander Molen.

2 **Q And why did you request Mr. Vander Molen's**
3 **attendance?**

4 A That particular agenda that day was related to
5 Video Club taping and questions regarding what the
6 Video Club had done in the past, and I felt he would be
7 helpful and I asked him to attend.

8 **Q To help develop the policy with regard to --**
9 **with regard to taping the Board meetings?**

10 A No.

11 **Q With regard to just the relationship between**
12 **the District and the Video Club?**

13 A No.

14 **Q Okay. What was it with regard?**

15 A Clarification as to what had been done in the
16 past, what procedures they used.

17 **Q What had been done in the past by who**
18 **regarding what?**

19 A By the club, by the District, by the
20 relationship between the two, just -- more historical
21 perspective.

22 **Q Okay.**

23 A Historical basis.

24 **Q Okay. So getting back to Exhibit Number Two,**
25 **this is a draft of an organizational chart prepared by**

1 **Q** **Okay.**

2 **A** So it would have been prior to my coming onto
3 the Board.

4 **Q** **Okay. So you did not change the membership of**
5 **the ARC committee when you became Chairman?**

6 **A** No, I did not.

7 **Q** **Were there -- does the ARC committee have a**
8 **limited number by District policy?**

9 **A** I don't believe it had a limited number.

10 **Q** **Did you add any members to the ARC committee?**

11 **A** Actually I took one away.

12 **Q** **Okay. Who is it that you took off the**
13 **committee?**

14 **A** Fred Hoch.

15 **Q** **Why did you take Fred Hoch away from the**
16 **committee?**

17 **A** He had been on the committee previously. The
18 year began, I became Chairman; I asked Fred if he
19 wanted to continue serving on the committee and allow
20 John to be the liaison, and he said yes. And then
21 subsequent to the March 17th Injunction hearing and the
22 stipulation, I called him that night and told him that
23 he would no longer be on the ARC committee, because
24 that was part of the stipulation.

25 **Q** **Okay, that there not be two Board members on**

1 **one committee?**

2 A Right. And they are actually not on the
3 committee; John's assigned as the liaison, he's not a
4 committee member, but depending on your interpretation
5 of that.

6 **Q Okay.**

7 A That was advised.

8 **Q So did you remove him or did he resign,**
9 **Mr. Hoch?**

10 A I called him and asked him, I said based on
11 the stipulation -- he wasn't at the hearing.

12 **Q Uh-huh.**

13 A I said based on the stipulation, I need to ask
14 you to resign from the committee; and he said, I'm
15 resigned.

16 **Q Okay.**

17 A And that's Fred.

18 **Q Did he ever put a resignation in writing?**

19 A No.

20 **Q Did that matter ever come before the Board?**

21 A In terms of a decision or an announcement?

22 **Q Let's say either.**

23 A Yes.

24 **Q Okay. What occurred --**

25 A I --

1 Q -- before the Board?

2 A I announced at the following meeting that Fred
3 had resigned from the committee.

4 Q Okay. Is it fair to say then that but for the
5 Injunction hearing, Mr. Hoch would still be a member of
6 the committee absent some personal decision that he
7 might make?

8 MR. CARROLL: Form.

9 MR. SHULTS: I'll object to form as well.

10 THE DEPONENT: I -- I would not wish to
11 speculate on that.

12 BY MR. HENNESSY:

13 Q Okay. Well --

14 A He wanted to be removed, I -- I mean, he --
15 not because of Sunshine issues, but it's a lot of work,
16 along with his other work, and Bob Durrin had been sick
17 so he had been filling in for some of Bob Durrin's work
18 so --

19 Q Well, let me ask you -- let me put it to you
20 differently.

21 A Okay.

22 Q You contacted Mr. Hoch about resigning, he
23 didn't contact you about resigning?

24 A Right.

25 Q And if it were not for the Injunction hearing

1 and the ruling of the Court, you would not have
2 contacted Mr. Hoch requesting his resignation?

3 A I can't say that for sure.

4 Q Okay. But it is your testimony that because
5 of the Injunction hearing and the ruling at that
6 Injunction hearing, you contacted Mr. Hoch?

7 A Yes.

8 Q Okay. Who is on the Audit Selection
9 Committee?

10 A Joe Trinkle, Sue Reickhoff, Ruth Langton,
11 Niles Kenyon, and myself.

12 Q Are you the only Board member that's currently
13 sitting on that committee?

14 A Yes.

15 Q Has the composition of the committee changed
16 during the course of this year?

17 A Yes.

18 Q How has it changed?

19 A The policy originally called for two Trustees
20 and three property owners. We have since revised that
21 and changed it to one Trustee and four property owners.

22 Q When was that policy changed?

23 A As soon as it was brought to my attention that
24 it needed to be changed.

25 Q Okay.

1 **Q** Okay. To your knowledge, did the District
2 have any specific contractual arrangements or
3 agreements regarding the provision of services to or by
4 a club?

5 A Contractual. I do not believe we have any
6 contracts with the clubs.

7 **Q** Okay. To your knowledge, do any of the
8 District clubs fulfill any functions that the District
9 otherwise would do or has contracted to do?

10 A The Video/Computer Club on Channel 95 manages
11 the -- I would say manages the Channel 95. They pick
12 up the materials on Tuesday to go onto Channel 95.

13 **Q** Pick up the materials from who?

14 A Clubs, organizations, in the District Office
15 -- can bring items into a folder in the office and they
16 pick that folder up.

17 **Q** Okay. Is this process for putting material on
18 Channel 95 between the District and the Video Club
19 memorialized in any type of agreement?

20 A I don't believe so.

21 **Q** And do you believe there's any policy with
22 regarding -- with regard to how content gets on
23 Channel 95 and what content gets on Channel 95?

24 A That's in the Video Club's hands.

25 **Q** So the District does not control what content

1 **gets on Channel 95?**

2 A We do not.

3 **Q And the District does not control how content**
4 **gets on Channel 95?**

5 A No, except that we serve as a -- a vehicle for
6 -- a place to collect the information before it gets
7 picked up.

8 **Q No District official or employee in any way**
9 **considers and approves, modifies or disproves (sic) any**
10 **requested content for Channel 95?**

11 MR. SHULTS: Object to form.

12 THE DEPONENT: I did once.

13 BY MR. HENNESSY:

14 **Q What did you do?**

15 A Somebody brought to my attention an item on --
16 like an advertisement on Channel 95. And it's my
17 understanding that the Video Club does not do
18 advertisements, so I informed this person that I -- if
19 you selected a room, scheduled a meeting date, that
20 then I believe you can use Channel 95, but my
21 understanding of the rules of Channel 95 were that you
22 can't just say anybody interested in such and such
23 call, you know, I -- I --

24 **Q Who asked you to place an advertisement on**
25 **Channel 95?**

1 A It was through an e-mail; David Bliss, I
2 believe his name.

3 **Q And what did David Bliss want placed on**
4 **Channel 95?**

5 A Something about quantive (sic) touch healing,
6 anybody who would be interested.

7 **Q And did you respond to him that it couldn't be**
8 **placed on Channel 95 just based on your own**
9 **understanding, or did you talk to someone about the**
10 **ability for it to be placed on Channel 95?**

11 A I didn't talk to anyone. I asked him -- told
12 him I needed to research the matter. Looked through
13 the records, didn't find anything.

14 **Q Uh-huh.**

15 A Told him from my perspective I didn't believe
16 that it would be something that would go on Channel 95;
17 that he should consider coming in and getting a room,
18 setting a time and advertising that instead, so that
19 was my suggestion.

20 **Q Okay. Does the Video/Computer Club have a**
21 **dedicated room within a District building?**

22 A Yes.

23 **Q Where is that?**

24 A The Activities Center.

25 **Q And what do they use the room for?**

1 A Storage of their equipment.

2 **Q And is that room locked?**

3 A Yes.

4 **Q And who has the key?**

5 A Members of the Video Club that are assigned;
6 Mark, our custodial foreman, and now myself.

7 **Q Who controls who gets keys to that room?**

8 A The Video Club, I believe, although I
9 intercepted -- interceded on the District's behalf.

10 **Q Okay. Is there a lease between the District
11 and the Video Club for that -- use of that room?**

12 A No.

13 **Q Does anyone else have -- any other resident
14 have access to that room?**

15 A I -- you'd have to ask the Video Club on who
16 they've approved for that.

17 **Q Does the Video Club videotape the District
18 Board meetings?**

19 A At the present time, yes.

20 **Q Is there a move that they not videotape the
21 Board meetings?**

22 A I've been informed that the -- two of the
23 members -- the two members that do the videotaping
24 aren't going -- perhaps aren't going to be here at the
25 same time.

1 Q Who are they?

2 A Lonnie Stanley and Bill Mumford.

3 Q Does the Video Club maintain copies of the
4 meetings that they -- that -- of the Board meetings
5 that they videotape?

6 A Not consistently, although I believe they're
7 more consistent now.

8 Q And what is your knowledge based on?

9 A Discussions with them.

10 Q Who?

11 A Lonnie Stanley.

12 Q Have you asked that they maintain copies of
13 the meetings that they videotape?

14 A No.

15 Q When you have received requests -- when the
16 District has received requests for production of copies
17 of Board meetings, have you or someone else at the
18 District inquired of the Video Club as to whether or
19 not they maintain copies of those Board meetings?

20 A Yes.

21 Q Has the Video Club produced such copies to you
22 in response to such requests?

23 A Those which they can.

24 Q So, for example, when my client has been
25 seeking a copy of a 2006 budget meeting from March