

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

CIRCUIT CIVIL CASE NO. 08-CA-11315

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MARY LOU SMITH, an individual, )
and SHARON DENSON, an individual, )
                                     )
                Plaintiffs,       )
                                     )
Vs.                                   )
                                     )
TRAILER ESTATES PARK AND RECREATION )
DISTRICT, an independent special    )
taxing district, JANET JONES, an    )
individual, JOSEPH SALERNO, an      )
individual, and MARY LOU MCNULTY,   )
an individual,                       )
                                     )
                Defendants.        )
- - - - - X

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DEPOSITION OF JOHN VANDER MOLEN

TAKEN BY: THE PLAINTIFFS HEREIN

BEFORE: DIANE GULDIN-TEMPLETON
Court Reporter
Notary Public
State of Florida at Large

DATE: April 16, 2009
Commencing at 1:03 P.M.

PLACE: Vincent M. Lucente & Associates
526 Twelfth Street West
Bradenton, Florida

1 performed by the committee in 2007?

2 A They were reviewed by committee members or
3 member, and approved or disapproved. I -- we were
4 not -- I -- I'd have to check the dates on whether we
5 were having meetings as a group then or doing it as
6 individuals.

7 Q Okay. So, you're saying that at some point
8 you were meeting -- you were doing the work as
9 individuals, and at some point you were doing the
10 work as a group?

11 A Correct.

12 Q Okay. Well, let's talk about when you were
13 doing the work as individuals. Did everyone on the
14 committee get assigned some work or are you saying
15 that one person on the committee basically did the
16 work?

17 A They were assigned a week of duty generally
18 by the chair, and they would assume that work during
19 the week.

20 Q Okay. And what would that work comprise?

21 A The homeowner would come in, and say, I'm
22 putting a new door in the front of my house --

23 Q Uh-huh.

24 A -- can you approve that. I'm adding a shed
25 in my backyard. Any change or addition as the deed

1 restrictions, and I can't quote them word for word,
2 would say that various things have to be reviewed,
3 and approved before you can commence that work.

4 **Q Okay. And would the committee then approve**
5 **or disapprove the work or would the individual**
6 **approve or disapprove the work?**

7 A There was a given time when an individual
8 approved or disapproved the work, although an
9 individual could not disapprove, it had to be a
10 committee, but an individual could approve.

11 **Q Okay. Is this a task that you as chairman**
12 **did individually on your own?**

13 A I would have rotated through one of the
14 assigned weeks, yes.

15 **Q Okay. Who were the other five members of**
16 **the committee?**

17 A I don't remember all five, I'd have to
18 research that.

19 **Q Okay. Do you remember any of them?**

20 A I think a Mr. Hank Gady has been on for a
21 number of years. Marian Bartoff has been on for
22 several years. Bill Vander Beck, deceased, had been
23 on the committee. That's all I remember at the time.

24 **Q Were there any other trustees that were**
25 **members of the ARC Committee at the time you were the**

1 Q Okay. And who took the minutes of meetings
2 when the ARC Committee work was being done by
3 committee members on an individual basis?

4 A There were no minutes, there were no
5 meetings.

6 Q How long to your knowledge has Marian
7 Bartoff then been taking minutes?

8 A I don't remember.

9 Q Okay. Has Joe Salerno been a member of the
10 ARC Committee?

11 A No.

12 Q Has he appeared in front of the ARC
13 Committee since you've been a member?

14 A I don't remember that he ever did, no.

15 Q Okay. Other than the ARC committee, what
16 other committees currently exist at Trailer Estates?

17 A Beautification. I'm not in charge of the
18 committees, so that's the only one that comes to mind
19 right now besides ARC.

20 Q Are you a member of the beautification
21 committee?

22 A No.

23 Q Have you ever attended a beautification
24 meeting?

25 A No.

1 Q Is there any reason that you were
2 particularly or individually copied on beautification
3 committee meeting minutes?

4 A Was there what? I'm sorry.

5 Q Would there have been any reason why you
6 were individually copied on minutes of the
7 beautification committee?

8 A I don't -- individually and no other person,
9 I don't --

10 Q Yes, sir.

11 A I don't think so.

12 Q You didn't serve any particular function at
13 the beautification committee to your recollection?

14 A That's correct.

15 Q Okay. Okay. Was there ever a committee
16 created by the district to deal with the web site or
17 communications of the district?

18 A Yes.

19 Q What was the name of that committee?

20 A Web site committee, I believe.

21 Q Okay. When was it created?

22 A I don't remember.

23 Q When was it in existence?

24 A I believe 2007, 2008.

25 Q Is it -- does it currently exist?

1 A I believe so.

2 Q Okay. Are you currently a member of the web
3 site committee?

4 A No, I'm not.

5 Q Do you know who is a member of the web site
6 committee currently?

7 A Martha Brauer, possibly Shirley Clots, I
8 think.

9 Q Any one else that you know of?

10 A I don't know of, no.

11 Q Any one else that you know of on the web
12 site committee?

13 A Lonnie Stanley perhaps.

14 MR. GILL: Don't speculate, Mr. Vander
15 Molen.

16 THE DEPONENT: Yes, sir.

17 BY MR. HENNESSY:

18 Q Okay. Well, the names that you've given me:
19 Martha Brauer, Shirley Clots, and Lonnie Stanley, why
20 do you believe that any of those individuals are on
21 the web site committee today?

22 A Mr. Stanley is very active in the video
23 computer club, and computer talented. Shirley Clots
24 was on the committee before.

25 Q When you were on it?

1 A I was not on it.

2 Q Oh, you were never on the video committee?

3 A Oh, I'm sorry?

4 Q You were never on the web site committee?

5 A No, I was not.

6 Q Okay. But -- so, to your knowledge just
7 Shirley has been on it for some time; is that what
8 you're saying?

9 A Yes.

10 Q Okay. And Martha, why do you believe she's
11 on the committee, Martha Brauer?

12 A She's also a very talented young lady that
13 is interested in having that up and running
14 correctly.

15 Q Are any of the three of them board members?

16 A Martha Brauer is a board member.

17 Q Okay. Has the web site committee been a
18 committee continuously from, I guess you mentioned
19 2007 until present?

20 A Somewhere in those years is when the
21 committee was formed, as people were interested in
22 having a web site for Trailer Estates.

23 And your question again was?

24 Q Has -- from the time it was established has
25 it been a committee of continuance existence until

1 **today?**

2 A I think it was reestablished at the --

3 MR. GILL: Mr. Vander Molen, don't

4 speculate. If you're not on the committee or you
5 don't know whether it exists, just say so.

6 THE DEPONENT: I don't know. I don't know
7 that.

8 BY MR. HENNESSY:

9 **Q Okay.**

10 A Sorry.

11 **Q Did you ever recommend anybody to be a**
12 **member of that committee?**

13 A No.

14 **Q Did you ever attend any of the web site**
15 **committee meetings?**

16 A Yes.

17 **Q When did you do so?**

18 A I don't remember the exact date.

19 **Q Okay. It -- I guess it would have been a**
20 **time period when you were a board member, since you**
21 **think that it started some time in 2007?**

22 A Yes.

23 **Q Okay. What was your purpose of attending**
24 **the meeting?**

25 A Simply to see what they were doing.

1 Q Uh-huh. Did you have any questions for the
2 web site committee or specific concerns or complaints
3 to them?

4 A No, sir.

5 Q Okay. What -- what comprised your
6 participation with that committee?

7 A Observation primarily.

8 Q Well, beyond observation, what was your
9 involvement with the web site committee?

10 A That was it.

11 Q Okay. So, you went to how many committee
12 meetings?

13 A One, as I recall.

14 Q Okay. And you -- what did you do at that
15 meeting?

16 A I raised questions, I guess about how does
17 it operate. Computers --

18 Q Uh-huh.

19 A -- have some fascination for me as they do
20 for many people.

21 Q Okay. So, you wanted to know how the -- how
22 the web site worked?

23 A How do you make a web site, yes.

24 Q Okay. Have you -- are you familiar with a
25 disaster committee for the -- that exists or has

1 not produce any particular documents, if requested?

2 A I don't remember.

3 Q Would that be within your responsibility as,
4 I guess maintenance trustee dealing with the public
5 records of the district?

6 A It would not be within my responsibility,
7 no.

8 Q Whose responsibility would it be?

9 A Office manager designated as record
10 keeper --

11 Q Okay.

12 A -- keeper of public records.

13 Q Well, if she has questions, who does she go
14 to?

15 A She reports to the chairman.

16 Q Okay. So, she could receive direction from
17 the chairman?

18 A That is my understanding.

19 Q Can she go directly to the district
20 attorney?

21 A Yes.

22 Q Okay. To your knowledge has she?

23 A Pardon me?

24 Q To your knowledge has she made requests of
25 the district attorney with regard to public records

1 **issues?**

2 A Not to my knowledge.

3 Q Okay. To your knowledge does the board have
4 a policy concerning the handling of public records
5 requests?

6 A I don't recall that it does.

7 Q Okay. You don't recall if it was ever an
8 issue that was presented to the board?

9 A I do not remember.

10 Q Okay.

11 MR. HENNESSY: I guess I'm up to Exhibit 6
12 (Thereupon, Exhibit Number 6 was marked
13 for identification by the court reporter.)

14 MR. HENNESSY: Take those.

15 BY MR. HENNESSY:

16 Q I'm showing you what's been marked trailer
17 -- what's been marked Exhibit 6, and is titled,
18 Trailer Estates Park and Recreation District Public
19 Records Policy and Procedure; do you recognize this
20 document?

21 A Yes.

22 Q What do you recognize it to be?

23 A PP 24.

24 Q And what does PP 24 stand for?

25 A Policy and procedures.

1 Q Okay. Does that mean it's a policy and
2 procedure of the district?

3 A Yes.

4 Q Down at the bottom it has an adopted date,
5 and a public records policy --

6 A Yes.

7 Q -- do you see that? It says, adopted
8 1/7/2008. Do you recall that -- that would have been
9 a time while you were a board member; correct?

10 A Yes.

11 Q And -- and this would -- as a policy of the
12 board, it would have to be -- or the district, it
13 would have to be adopted by the board?

14 A Yes.

15 Q So, do you recall this coming before you,
16 and you voting on it?

17 A I don't remember.

18 Q Okay. Is it possible that this policy could
19 have been adopted outside of a board meeting?

20 A Not possible.

21 Q Okay. So, for it to be adopted it would
22 have to have been presented at a board meeting, and
23 voted on by the board, and received a favorable vote?

24 A Yes.

25 Q Okay. Did you have a part at all in

1 **drafting this policy?**

2 A No.

3 **Q Who did?**

4 A Many of our policies and procedures were
5 drafted by Martha Brauer.

6 **Q Uh-huh. Just on her own?**

7 A I don't know.

8 **Q Okay. Do you believe that this policy was
9 drafted by Martha Brauer?**

10 A I don't know.

11 **Q Was there anything that would indicate that
12 it was drafted by Martha Brauer?**

13 A No.

14 **Q Have you ever assisted Martha Brauer in
15 drafting policies for the board?**

16 A At a board meeting --

17 **Q Uh-huh.**

18 A -- this would have come before a board
19 meeting.

20 **Q Okay.**

21 A Drafted by whoever drafted it, it would have
22 been under discussion at a public meeting.

23 **Q Okay.**

24 A Perhaps reworked, and then voted on, and
25 approved.

1 Q Okay.

2 A So, if that's working with Martha, the
3 answer would be, yes.

4 Q Well, outside of a board meeting have you
5 worked with Martha on drafting policies for the
6 board?

7 A No.

8 Q Okay. In 2008 was there a policy and
9 procedure committee?

10 A I don't remember.

11 Q Currently is there a policy and procedure
12 committee?

13 A I do not believe so.

14 Q Okay. So, in the absence of a policy and
15 procedure comment, could an individual board member
16 draft a policy for the board to consider?

17 A Yes.

18 Q To your knowledge has that been done in the
19 past?

20 A No.

21 Q To your knowledge is that what was done with
22 this policy?

23 A I wouldn't know that.

24 Q Okay. So, to the best of your recollection
25 this policy was approved by the board in January of

1 2008, and you had no involvement outside of that
2 board meeting in -- with this policy, and you don't
3 know who did, and how it came to be in front of the
4 board?

5 MR. SHULTS: Object to form.

6 THE DEPONENT: There's several parts to that
7 question --

8 BY MR. HENNESSY:

9 Q Yes.

10 A -- could you break them down individually?

11 MR. HENNESSY: Can you just reread the
12 question for me? I'm sorry to do that to you.

13 (Thereupon, the last question referred to
14 was read back by the court reporter.)

15 MR. SHULTS: Same objection to form.

16 MR. CARROLL: Join.

17 MR. GILL: If you know the answer, Mr.
18 Vander Molen, then you can speculate as to what
19 it is, but I caution you not to.

20 THE DEPONENT: I don't know the answer.

21 BY MR. HENNESSY:

22 Q Okay. All right. To your knowledge has
23 this policy ever been amended?

24 A To my knowledge it has not been amended.

25 Q Okay. Okay. So, to your knowledge is this

1 policy the original public records policy of the
2 board, and the existing public record policy of the
3 board?

4 A The original and existing, yes.

5 Q Okay. Would the development of that policy
6 be falling into -- under your responsibility as vice
7 chair?

8 A No.

9 Q Would the development of that policy fall
10 into your responsibility as maintenance trustee?

11 A No.

12 Q Would the development of that policy fall
13 into any responsibility, particularly to you, other
14 than to vote on it as a board member?

15 A No.

16 Q Okay. Who would have primary responsibility
17 for developing this policy that's identified in
18 Exhibit 6?

19 A This policy?

20 Q Yes, sir. Which of the board members?

21 A No specific board member was assigned that
22 that I recall.

23 Q Okay. Well, in terms of the various trustee
24 responsibilities, would it -- or officer
25 responsibilities, is there any particular person who

1 would have that duty?

2 A To the best of my knowledge, no.

3 Q Okay. There's no -- none of the officers
4 have the specific duty, I guess to maintain or
5 develop policies and procedures for the board?

6 A Organizational chart does not indicate that
7 that -- that no one has responsibility, the chairman
8 has general overall responsibility for all matters.

9 Q Okay. What about the secretary?

10 A No.

11 Q Okay. Would -- would they have supervisory
12 -- the secretary, would they have supervisory
13 responsibility over -- in any way over -- over the
14 public records of the district?

15 A (No verbal response. The deponent shakes
16 his head from side to side.)

17 Q No?

18 A No. I'm sorry. I'm sitting here shaking my
19 head, you can't read shakes; can you?

20 MR. HENNESSY: Let me have this marked
21 Exhibit 7.

22 (Thereupon, Exhibit Number 7 was marked
23 for identification by the court reporter.)

24 BY MR. HENNESSY:

25 Q I'd like you to look at it, and I'm going to

1 ask you some questions about it.

2 Have you had a chance to look over --

3 A Uh-huh. Yes.

4 Q -- Exhibit 7?

5 A Yes.

6 Q Mr. Vander Molen, Exhibit 7 is a two page
7 document; correct?

8 MR. GILL: Well, I object, because the
9 second page says it's Page 4 of 4, where -- where
10 is Pages 1 through 3?

11 MR. HENNESSY: Objection noted.

12 MR. GILL: Okay.

13 MR. HENNESSY: But that's all there is.

14 MR. GILL: Is Exhibit 6 one through three,
15 and Page 2 of Exhibit 7 is supposed to be Page 4?

16 MR. HENNESSY: Well, I guess we will just
17 have to ask him, and find out.

18 MR. GILL: Well, it's your document, and
19 you're presenting it to him.

20 MR. HENNESSY: No. No, we're not. It's the
21 public record document --

22 MR. GILL: Well --

23 MR. HENNESSY: -- and it's all I have. And
24 I'm going to ask him the question.

25 MR. GILL: Was it presented to you in this

1 format?

2 MR. HENNESSY: Yes, sir. Yes.

3 MR. GILL: All right. Go ahead.

4 MR. HENNESSY: All right.

5 BY MR. HENNESSY:

6 **Q Mr. Vander Molen, Page 1 of Exhibit 7**
7 **purports to be an E-Mail from you to the board**
8 **members; do you recall this E-Mail?**

9 MR. SHULTS: Object to form.

10 THE DEPONENT: That's not an E-Mail.

11 BY MR. HENNESSY:

12 **Q I'm sorry. A memo. Well, let me start --**
13 **let me ask you a different question.**

14 **Do you recall Exhibit 7?**

15 A I do not recall it.

16 **Q Do you recall preparing Exhibit 7?**

17 A I do not recall preparing Exhibit 7.

18 **Q Do you see your name, John Vander Molen, on**
19 **the first page of Exhibit 7?**

20 A Yes, I see my name.

21 **Q Do you see your signature next to it?**

22 A Yes.

23 **Q Okay. That is, in fact, your signature;**
24 **correct?**

25 A It appears to be.

1 Q All right, sir. Okay. This memo is dated
2 March 18th, 2008, approximately a year ago, and it
3 states that it's regarding public records policy
4 fees; do you recall preparing this memo with regard
5 to a fee schedule for public records?

6 A I do not recall that.

7 Q The second page appears to be Page 4 of 4 of
8 the Trailer Estates Parks and Recreation District
9 Public Records Policy and Procedure; have you seen
10 that document before?

11 A I don't remember.

12 Q Well, Mr. Vander Molen, do you have any --
13 anything that you can tell me as to how this memo and
14 this attachment to this memo came to exist in the
15 public records of the district?

16 A No.

17 Q Okay.

18 A I'm sorry.

19 Q Do you recall presenting this matter of a
20 fee schedule to the board, the Trailer Estates Park
21 and Recreation District Four?

22 A I don't remember.

23 Q Do you recall the issue of fees for public
24 records request ever coming before the board?

25 A I do recall, yes.

1 Q What is it that you recall about such a
2 discussion?

3 A There was some discussion.

4 Q H'm. That's any -- anything specific that
5 you recall?

6 A Nothing specific.

7 Q Outside of the board meetings, do you ever
8 recall having discussions with district staff or
9 district board members about your concerns about the
10 costs, and the -- or the number of public records
11 requests that the district was having to deal with?

12 MR. CARROLL: Form.

13 MR. HENNESSY: That's fine. Let me break it
14 up.

15 BY MR. HENNESSY:

16 Q Do you recall having discussions outside of
17 district board meetings concerning the number of
18 public records requests -- requests the district was
19 having to deal with?

20 A Yes.

21 Q Okay. Who were those conversations with?

22 A I don't remember.

23 Q Okay. Were they with another board member?

24 A I don't remember.

25 Q Okay. Were they with T. J. Miller?

1 A I don't remember.

2 Q Okay. Do you recall having a discussion
3 about the need to start charging people for public
4 records requests?

5 A That's -- help me with the question, what --

6 Q Well, Mr. Vander Molen, did you prepare the
7 second page of Exhibit 7?

8 A No.

9 Q Do you know who did?

10 A No.

11 Q Do you have any idea how this document came
12 to be?

13 A No.

14 Q Do you know why it would be attached to an
15 E-Mail from you concerning the very same topic?

16 MR. GILL: Objection. It's not an E-Mail.

17 MR. SHULTS: Objection.

18 MR. HENNESSY: I'm sorry. Correction.

19 BY MR. HENNESSY:

20 Q Memorandum from you to the board?

21 A Please state the question again.

22 Q Do you have any -- can you -- do you have
23 any idea how the memo, which is the first page of
24 Exhibit 7 came to be?

25 A I -- I don't remember.

1 Q Okay. Do you recall Joe Salerno -- Joe
2 Salerno is another board member; correct?

3 A Yes.

4 Q And he was a board member in 2008?

5 A Yes.

6 Q Okay. Do you recall of Mr. Salerno
7 providing a memo to the board stating or discussing
8 the possibility for low interest rate loans?

9 A No.

10 Q Okay. Have you ever had a conversation
11 outside of a board meeting with Mr. Salerno
12 discussing the availability to the board or the
13 district of low interest rate loans?

14 A No.

15 Q Do you recall ever meeting with Mr. Salerno
16 to discuss the district financial form -- district
17 financials or budget preparation outside of the
18 district board member -- meeting?

19 A A meeting with Mr. Salerno?

20 Q Yes, sir.

21 A No meeting.

22 Q Okay. Okay. Well, do you recall ever
23 getting together with Mr. Salerno, at which time a
24 discussion ensued concerning district financials or
25 budget preparation, and that get together being

1 outside of a formal district board meeting?

2 A Get together with?

3 Q Yes. You know, like you and I are getting
4 together here today, except the court reporter
5 present?

6 A His desk is -- is alongside or behind me.

7 Q Okay. You can --

8 A You asked adjacent to is -- why, yes, here
9 is his, mine is there.

10 Q When you're sitting at your desk, can you
11 see Mr. Salerno?

12 A If I turn around, yes.

13 Q So, he can see your face, and you can see
14 his face if he turns towards you?

15 A If he turns around --

16 Q Okay.

17 A -- he's facing the wall.

18 Q Okay. So, let's call that a get together.

19 A Okay.

20 Q You both lean back from your desks, and you
21 start chatting, have you ever had such a situation
22 where you at that time talked about district
23 financials?

24 A Mr. Salerno is interested in that as I am,
25 and we may have, yes.

1 Q Okay. And have you ever talked to him as --
2 in that kind of scenario as well about budget
3 preparation?

4 A Yes.

5 Q Okay. Do you recall at a time when you had
6 such a conversation, and my client, Ms. Denson, came
7 upon you, and was asked to join in that discussion?

8 A No.

9 Q Okay.

10 MR. HENNESSY: Let's have this marked as
11 Exhibit 8.

12 (Thereupon, Exhibit Number 8 was marked
13 for identification by the court reporter.)

14 BY MR. HENNESSY:

15 Q Mr. Vander Molen, I'm handing you what's
16 been marked as Exhibit 8 to the deposition, it's a
17 letter May 29th, 2008, to you and Joe Salerno from
18 Sharon Denson. Subject being discussion on mailing
19 budget and audit. I'd like you to take a look at it,
20 and tell me after you've had a chance if you recall
21 receiving this letter?

22 A I do not recall seeing this.

23 Q Okay. In the first paragraph Ms. Denson
24 refers to a budget and audit being mailed together
25 this year in April, this year being 2008. She states

1 that she did not hear any public discussion on this
2 decision or vote by the board. The only discussion
3 that I heard was the day I came into the office, and
4 the two of you were discussing it in the back room,
5 this was prior to the budget mailing; do you recall
6 that conversation?

7 A Do you have a specific date?

8 Q Well, it would appear to be in April of
9 2008.

10 A We could have discussed that, yes.

11 Q Okay. Well -- and do you recall then as it
12 indicates in the second paragraph asking Ms. Denson
13 if she agreed with your opinion that you could do one
14 mailing instead of two, and show -- showing her
15 section 12 of the charter?

16 A I don't recall that.

17 Q Okay. Do you recall her indicating to you
18 that she couldn't make it out, because she didn't
19 have her reading glasses?

20 A I don't recall that.

21 Q All right. And, I'm sorry, was it your
22 testimony that you don't recall receiving this
23 letter?

24 A Yes, it was my testimony, I don't recall
25 seeing it -- receiving it.

1 Q Well, I'm going to assume, but I'm not
2 supposed to assume, so I'll just ask you, did you
3 prepare any kind of a response to this letter?

4 A I don't recall receiving it.

5 Q Right. So, it's fair to say you didn't
6 respond to it?

7 A Correct.

8 Q Okay.

9 MR. HENNESSY: Nine.

10 (Thereupon, Exhibit Number 9 was marked
11 for identification by the court reporter.)

12 BY MR. HENNESSY:

13 Q Mr. Vander Molen, I'm showing you what's
14 marked Exhibit 9 to the deposition, it's a memo dated
15 March 18th, 2008, approximately a year ago, and it's
16 indicated as being from you as first vice chair to
17 the Board of Trustees; do you recall preparing this
18 memo?

19 A No.

20 Q Is that your signature?

21 A I believe that's my signature, yes.

22 Q It appears to be a note as well that was
23 attached to this, and copied when we received this in
24 response to our public records request; is that note
25 your note, is it your handwriting?

1 A No, it is not my handwriting.

2 Q Do you recognize the handwriting?

3 A No.

4 Q Okay. The document was referring to a
5 Public Record Number 137 Office Book Memo 1 regarding
6 trustees and employees cell phone numbers in case of
7 emergency; do you recall a discussion concerning
8 dealing with the maintenance of trustee and employee
9 cell phone numbers?

10 A I don't recall a conversation.

11 Q Do you recall preparing this memo?

12 A I did not prepare the memo.

13 Q Do you know, was this memo prepared for you?

14 A I did not prepare the memo.

15 Q Did you have someone prepare this memo?

16 A I did not have any one prepare the memo --
17 memo.

18 Q Do you know who prepared this memo?

19 A Not specifically, no.

20 Q Do you have some idea who may have prepared
21 this memo?

22 A Our office manager.

23 Q Who would that be?

24 A T. J. Miller.

25 Q Okay. And why do you believe she prepared

1 **this memo?**

2 A Because the trustee is an employee, would
3 have stated concerns about personal cell phone
4 numbers being confidential, and given out to the
5 residents.

6 Q Okay. Do you know why she would have
7 prepared the memo for your signature?

8 A March 18, 2008, might have been the --
9 around the time that our chairman was ill, and I was
10 first vice chairman.

11 Q I see. And who is your first chair -- who
12 was the chairman at that time?

13 A Janet Jones.

14 Q All right. Okay. Did you provide any one
15 any direction with regard to the preparation of this
16 memo?

17 A No.

18 Q Okay. So, how is it this memo came to be,
19 and how is it it came to have your signature on it?

20 MR. CARROLL: Form.

21 BY MR. HENNESSY:

22 Q That's just a lawyer thing, you get to go on
23 and answer.

24 A I don't know what that means.

25 MR. GILL: It means it's a compound

1 question, it's two in one, but if you have the
2 answer to both of them, go ahead and give it to
3 him.

4 THE DEPONENT: I'm sure that the employees
5 were concerned about others having their cell
6 phone numbers.

7 BY MR. HENNESSY:

8 Q Yeah. Well --

9 A And it seemed a reasonable request, and I
10 signed it.

11 Q Okay. Do you recall specifically having a
12 conversation with Ms. Miller, the office manager,
13 concerning this matter?

14 A I don't recall a conversation, no.

15 Q Okay. And do you specifically recall
16 signing this memo?

17 A I believe it is my signature.

18 Q Okay. Do you recall anybody ever requesting
19 to receive a copy of the trustees and employees cell
20 phone numbers?

21 A That wouldn't have been under my control, so
22 I don't have any -- would not have had any input or
23 known of any one asking.

24 Q And you didn't instruct staff not to produce
25 those records or to only produce those records in

1 redacted form?

2 A Please rephrase that.

3 Q Did you ever step -- instruct district staff
4 not to produce records of employee or trustee cell
5 phone numbers?

6 A No, I did not.

7 Q Did you ever instruct staff to redact
8 documents containing trustee and employee cell phone
9 numbers?

10 A I did not instruct any one, no.

11 Q Okay. Did you instruct district staff to
12 store documents containing personal cell phone
13 numbers of trustees and employees in a file cabinet
14 drawer with the blank checks and money box?

15 A I did not instruct any staff member to do
16 that.

17 Q Okay. Have you gone ahead and looked for
18 this document yourself?

19 A No.

20 Q Never had occasion to need it?

21 A No.

22 Q Okay. Did any trustee or employee
23 specifically come to you, and state their concern
24 about someone having access to their personal cell
25 phone number through a district record?

1 A No.

2 Q Okay. The -- the memo makes reference to a
3 Public Record Number 137 Office Memo Book 1; do you
4 know what that means?

5 A All public records are catalogued, numbered,
6 and I guess recorded somewhere.

7 Q Why are they -- why is that done?

8 A So that when people come in, they can get
9 them.

10 Q Okay. So, if someone comes in, and asks for
11 public record -- records by number or asked for
12 public records that were enumerated, the district has
13 a method to retrieve those records?

14 A That's not under my control, so I don't deal
15 with that.

16 Q Okay. So, you haven't given district staff
17 any direction on how to maintain or organize the
18 district records?

19 A I have not.

20 Q Okay. Do you -- before when you answered my
21 question, were you speculating or were you personally
22 aware of whether or not the district has enumerated
23 public records?

24 A I've seen the books in the file cabinet with
25 numbers on them.

1 **Q** Okay. Okay. Are you aware that my clients
2 have asked for documents that are reflected in those
3 books enumerating public records?

4 A I have seen comments in the complaint that
5 has been filed against the district.

6 **Q** Okay. You haven't been involved then in
7 responding to any of the plaintiffs public records
8 request?

9 A No, it's not in my purview.

10 **Q** Okay. What is The Tribune?

11 A We have a document or a publication
12 published by an outside company for Trailer Estates
13 called Trailer Estates Tribune, are you referring to
14 that?

15 **Q** I think so.

16 A Okay.

17 **Q** Fair to say The Tribune is the district
18 newsletter?

19 A Yes.

20 **Q** Okay. Who is it that publishes it?

21 A I don't recall the name of the company.

22 **Q** Oh, I thought you just gave me a name, and I
23 didn't catch it. Who is the editor of The Tribune?

24 A There was no editor.

25 **Q** Well, who on behalf of the district approved

1 **the content of The Tribune?**

2 A No one to my knowledge.

3 **Q Well, how does the document -- how does The**
4 **Tribune get created?**

5 A Clubs turn in a notice, other activities
6 within the park, our social director, our seasonal
7 director turns in notices, and they're published in
8 there.

9 **Q Who do they turn them in to?**

10 A Our office manager, T. J. Miller.

11 **Q And what does she do with them?**

12 A I don't know the specific procedure.

13 **Q Do you have a general idea of what the**
14 **procedure is?**

15 A I assume she types -- she --

16 MR. GILL: Don't -- don't make any
17 assumptions, John.

18 THE DEPONENT: That's why I stopped right
19 there.

20 MR. GILL: Okay.

21 BY MR. HENNESSY:

22 **Q Are you --**

23 A Rest.

24 **Q Are you involved in any way -- in the**
25 **content that does get into The Tribune or does not**

1 get into The Tribune?

2 A I'm not involved.

3 Q Is any board member involved in the content
4 that goes into or does not go into The Tribune?

5 A You'd have to ask the other board members
6 that.

7 Q Have you personally ever discussed the
8 access to putting content into The Tribune, either a
9 board meeting or outside of a board meeting?

10 A With who?

11 Q Well, I'm being as general as I can on that.
12 You say, you don't have any specific knowledge, I'm
13 basically trying to understand if you have spoken to
14 people about what goes in The Tribune?

15 A Yes.

16 Q Okay. Who have you spoken to?

17 A Could have been the video club, and their
18 putting a notice in of the ice cream social --

19 Q Uh-huh.

20 A -- those things.

21 Q Okay. Well, had you ever been involved in
22 making a decision to -- to deny someone the ability
23 to put something in The Tribune?

24 A I have read some notices, and asked to
25 comment --

1 Q Uh-huh.

2 A -- on them.

3 Q Who asked you to read a notice, and comment?

4 A I don't recall.

5 Q Really, you have no recollection of who
6 asked you to look at content that would -- was being
7 asked to be placed in The Tribune?

8 A It's been so -- in rare, if ever occasion
9 that I don't recall.

10 Q Okay. All right. Mr. Vander Molen, let me
11 show you what I'm going to mark as Exhibit 10, which
12 are some minutes of a board meeting workshop.

13 (Thereupon, Exhibit Number 10 was marked
14 for identification by the court reporter.)

15 BY MR. HENNESSY:

16 Q I want you to look at Page 1 under Tribune
17 Articles - John Vander Molen.

18 A I've read it.

19 Q Okay. Having shown you Exhibit 10, which is
20 a June 9th, 2008, workshop of the Board of Trustees,
21 were you chairman at that time?

22 A No.

23 Q Okay. It indicates that you opened the
24 workshop, were you acting as vice chair then?

25 A Yes.

1 Q All right. You see under Tribune Articles -
2 John Vander Molen?

3 A Yes.

4 Q You had a chance to read that paragraph?

5 A Yes.

6 Q Okay. Does that refresh your recollection
7 as to your involvement with access to content to The
8 Tribune?

9 A Yes.

10 Q Would it be fair to say then that the -- the
11 trustees exercised control over the content that goes
12 into The Tribune?

13 A Yes.

14 Q Okay. Or is that something that you took
15 specific responsibility to or -- or do all of the
16 trustees have responsibility?

17 A A general responsibility, no specific.

18 Q Okay. Now, it states that you decided to
19 cancel rants and raves and personal opinions in The
20 Tribune; how did you make that --

21 MR. GILL: Objection. It mis-characterizes
22 the sentence.

23 MR. HENNESSY: Okay.

24 MR. GILL: There is nothing in there that
25 says that Mr. Vander Molen made any decisions.

1 MR. HENNESSY: Sorry.

2 BY MR. HENNESSY:

3 Q It says, Mr. Vander Molen stated that -- oh,
4 fair enough.

5 Mr. Vander Molen stated that --

6 MR. GILL: Who is we?

7 MR. HENNESSY: Yeah, I'll get -- I'll ask
8 that question for you.

9 BY MR. HENNESSY:

10 Q Mr. Vander Molen stated that we decided to
11 cancel rants and raves and personal opinions of The
12 Tribune, who is we?

13 A The board.

14 Q Okay. When was that board decision made?

15 A I don't recall.

16 Q Okay. Was it made here on June -- at the
17 June 9th, 2008 workshop?

18 A I simply stated that we have decided to
19 cancel. And you're saying, who is we. No, I would
20 ask who the we is, and I don't specifically recall.
21 That issue came up then, and we may have discussed it
22 at this meeting, and said, we're not going to publish
23 rants and raves until we -- until the policy and
24 procedure committee presents us with direction in the
25 fall.

1 Q All right, sir. If we is the board, then
2 wouldn't that decision have to come at a board
3 meeting?

4 A As an official action, yes.

5 Q Okay. Are you saying that -- then that the
6 board decided to cancel rants and raves and personal
7 opinions in The Tribune as an informal board action?

8 A I'd have to look at other board meeting
9 minutes to see if we took action at another board
10 minute -- board meeting.

11 Q Okay. Well, assuming that you couldn't find
12 any reference to this decision in a -- in the board
13 minutes, is it your testimony then that the board
14 could have informally discussed this, and informally
15 decided to discontinue?

16 MR. GILL: Objection to him making
17 assumptions, and the question calls for him to
18 speculate on what the board might have done.

19 MR. HENNESSY: Well, I think it's a fair
20 hypothetical question.

21 MR. SHULTS: Object.

22 MR. HENNESSY: I understand your objection.

23 MR. GILL: It's not -- this is not -- this
24 is a fact witness, not an expert opinion witness.

25 MR. HENNESSY: Well, he's a -- he's got his

1 expertise --

2 MR. GILL: Don't speculate or render your
3 opinion, Mr. Vander Molen. If you know the
4 answer to the question, provide it.

5 MR. SHULTS: Object to form.

6 THE DEPONENT: It is possible we discussed it
7 at this workshop --

8 BY MR. HENNESSY:

9 Q Uh-huh.

10 A -- or previous workshop.

11 Q Uh-huh.

12 A And as a general statement we decided to
13 cancel rants and raves and personal opinions in The
14 Tribune until a policy could be formed.

15 Q Okay. So, The Tribune is a -- is controlled
16 by the board?

17 A I would say we oversee, not control.

18 Q Well, you control the content?

19 A No.

20 Q The -- the board doesn't control the content
21 to The Tribune?

22 A No.

23 Q Then how is it that the board could decide
24 to cancel the rants and raves and personal opinions?

25 MR. GILL: Objection. Asks him to

1 speculate.

2 THE DEPONENT: I don't know how the rants and
3 raves started, it may have been a board started
4 rants and raves, and then the board decided to
5 suspend that operation until policy was written.

6 BY MR. HENNESSY:

7 **Q To your knowledge is there any one else that**
8 **controls the content of The Tribune?**

9 MR. GILL: Objection. He didn't say that
10 the board controls the content, now you're
11 putting words into his mouth.

12 I hope you're holding back here, because
13 we've been here now for almost three hours, and
14 every time I think the shoe is going to drop, I
15 don't get anything.

16 MR. HENNESSY: Is that an objection?

17 MR. GILL: I have to go feed the parking
18 meter, so let's take a break.

19 MR. HENNESSY: That's fine.

20 Well, let's just finish this topic, and then
21 we can take a break.

22 BY MR. HENNESSY:

23 **Q Mr. Vander Molen, to your knowledge has the**
24 **policy and procedures committee presented the board**
25 **with any direction as to who will -- as to whether or**

1 not the rants and raves columns or personal opinions
2 of The Tribune will continue or will resume, I guess?

3 A We now have 60 policies and procedures --

4 Q Uh-huh.

5 A -- I don't recall specifically one
6 addressing this.

7 Q All right. The minutes also state that you
8 will take the responsibility, and pull the article,
9 what did -- what was meant by that to your knowledge?

10 A That when the we decided, I will -- I would
11 tell T. J. not to put the article in the paper.

12 Q What article was -- are we referring to?

13 A I don't know. The rants and raves.

14 Q Uh-huh.

15 MR. GILL: Can I --

16 MR. HENNESSY: Your attorney has asked for a
17 break.

18 MR. CARROLL: Do you have an idea how much
19 longer we're going to be here?

20 MR. HENNESSY: I would certainly hope to be
21 concluded within the hour.

22 (Thereupon, a recess was had.)

23 MR. HENNESSY: Mark that.

24 (Thereupon, Exhibit Number 11 was marked
25 for identification by the court reporter.)

1 BY MR. HENNESSY:

2 Q Mr. Vander Molen, I'm showing you what's
3 been marked as Exhibit 11 to the deposition, it's a
4 memo from you to Trailer Estates trustees regarding
5 release of copies of the mediated settlement
6 agreement of the case regarding the McNeil of 6626
7 New Jersey; is this the McNeil case that you referred
8 to earlier about a prior deposition?

9 A Yes.

10 Q Okay. Do you recall preparing this memo?

11 A Yes.

12 Q Okay. Did you prepare this one yourself?

13 A Yes.

14 Q Okay. Is it correct?

15 A Is it correct?

16 Q Yes. The contents, the statements, the
17 facts in here, are they correct?

18 A As I knew them.

19 Q Yes, sir. Okay. What was the purpose of
20 writing this memo?

21 A I believe the first paragraph explains that.

22 Q Is it fair to say that you had copies of a
23 mediated settlement agreement that you withheld from
24 other board members?

25 A Yes.

1 Q Okay. And this is your explanation as to
2 why you withheld it?

3 A Yes.

4 Q Okay. And does it also include, I guess
5 your explanation about correcting your error in
6 withholding the -- the record, the settlement
7 agreement?

8 A I think the next to the last paragraph
9 speaks to that.

10 Q Okay. And you had a conversation with Mr.
11 Barnebey about providing copies of the settlement
12 agreement. It states in that paragraph that you
13 pressed for a reason as to what prompted this late
14 action. He responded that he felt the settlement was
15 a public record, and therefore should be released.
16 What did you mean by, you prompted the reason for
17 late action?

18 A Are you talking about the sentence, when I
19 pressed for a reason as to what prompted this --

20 Q Late action?

21 A -- late action?

22 Q What did you mean by late action?

23 A Well, late in that I had withheld it.

24 Q Uh-huh. Okay. You stated that he
25 acknowledged he received a phone call from a trustee

1 concerning the release. So, you were -- you were
2 trying to -- you were asking Mr. Barnebey why he was
3 so late in asking you to release the document, and he
4 said that another trustee had been asking for it?

5 A I'm not sure of your question. It states
6 there what happened.

7 Q I'm trying to understand what you've
8 written, my interpretation, and I'm asking you if my
9 interpretation is correct?

10 A And your interpretation was?

11 Q That Mr. Barnebey called, told you, you had
12 to release the settlement agreement, because it was a
13 public record.

14 You asked him, why are you telling me this
15 now?

16 And he said, well, I've got another trustee
17 asking for the document; is that a fair
18 understanding?

19 MR. SHULTS: Object to form.

20 MR. CARROLL: Join.

21 THE DEPONENT: Mr. Barnebey it says here, he
22 acknowledged, meaning Mr. Barnebey, he had
23 received a phone call from a trustee concerning
24 the release.

25 BY MR. HENNESSY:

1 **Q Uh-huh.**

2 A Doesn't that explain? In other words, he
3 was asking why wasn't it released, I assumed the
4 trustee was asking Mr. Barnebey this.

5 **Q Right.**

6 A I can't speculate what Mr. Barnebey was
7 thinking.

8 **Q I'm not asking you to speculate what Mr.**
9 **Barney was thinking.**

10 A Okay. Ask him.

11 **Q I'll -- I'll ask him.**

12 A Okay.

13 **Q No. What I'm saying is, is it fair to say**
14 **that you asked Mr. Barnebey why he was telling you,**
15 **you had to release this document?**

16 A And he responded he felt the settlement was
17 a public record, and therefore should be released.

18 **Q Okay. And you further asked him, what was**
19 **the reason for him pursuing this? And the basis was,**
20 **a trustee wanted the document?**

21 MR. SHULTS: Object to form.

22 MR. CARROLL: Join. Is there a question
23 there?

24 THE DEPONENT: I don't believe that's what it
25 says. When I press for a reason --

1 BY MR. HENNESSY:

2 Q Well, I'm asking you what you recall?

3 A I don't recall anything, other than what
4 you've shown me here at this --

5 Q Well, do you know who the trustee was that
6 was concerned about the -- or was asking about
7 releasing the documents?

8 A No.

9 Q Okay. You said that you requested -- that
10 Mr. Barnebey put his decision in writing, to your
11 knowledge did he do that?

12 A I believe he did, yes.

13 Q Okay. Did you make -- retain a copy of that
14 document?

15 A If it came to the office, it should be on
16 record.

17 Q At the office?

18 A If it came to the office, it should be on
19 record.

20 Q Well, you specifically state, his fax was
21 received in the TE office at 2:44 P.M., Friday, June
22 1st, 2007 --

23 A Okay.

24 Q -- do you recall going and checking to
25 confirm that he had produced -- he had made such a

1 fax?

2 A I think I would have, otherwise I wouldn't
3 have released this.

4 Q Okay. You then say, the office and I --
5 office manager and I immediately contacted all of the
6 trustees, who was the office manager at that time?

7 A T. J. Miller.

8 Q Okay. So, you and her contacted the
9 trustees, where -- how did you contact them?

10 A I said, all available, and they did pick up
11 or had delivered to them copies of the settlement
12 before three P.M., telephone probably.

13 Q Okay. All right.

14 A No, by telephone.

15 Q Okay.

16 A Strike probably.

17 Q All right. So, you -- where were you when
18 you made the telephone call?

19 A In the office.

20 Q Okay. And by the office, you mean the
21 Trailer Estates office?

22 A I believe so, yes.

23 Q All right. And did you jointly contact all
24 of them or did you contact some of them, and she
25 contacted others or what -- how -- how did that

1 **proceed?**

2 A Well, if -- my memo states, the office
3 manager and I --

4 Q Uh-huh.

5 A -- immediately contacted all of the trustees
6 available.

7 Q Uh-huh.

8 A I don't know which ones she did, and which
9 ones I did.

10 Q Okay.

11 A The conversation would have been trustee,
12 whoever, the settlement is available in the office
13 for your pick up.

14 Q Do you have a specific recollection of your
15 conversations with trustees about the settlement
16 agreement?

17 A I think I just stated that, I said, the copy
18 of the --

19 Q Well, you were reading what was in the
20 document. What I'm asking is apart from what's in
21 the document do you recall specifically your
22 conversations with any trustees?

23 A I would only have said the copy of the
24 settlement is in the office available for your pick
25 up.

1 **Q** Okay. Why do you believe that your
2 **conversation would be limited to that? Do you have a**
3 **-- are you speculating on that or do you have a**
4 **specific recollection?**

5 A No, I have -- I had no other reason for
6 contacting them --

7 **Q** Uh-huh.

8 A -- other than to say, if this is what you're
9 asking me, probably said Mr. Barnebey advised me I
10 must release -- or this must be released, and it's
11 ready for your pick up.

12 **Q** All right. Why would you have placed Mr.
13 **Featheringill's copy in the mail?**

14 A He wasn't here. He wasn't on site when --

15 **Q** Okay.

16 A -- this action took place in June 4th, 2007.

17 **Q** Okay. And, again, these -- that's your
18 **signature at the bottom?**

19 A Yes.

20 **Q** Did you make any recommendations to the
21 **board about approving or rejecting the settlement?**

22 A I recommended that they approve the
23 settlement.

24 **Q** And did you recommend that in the written
25 **document that you provided to each of the individual**

1 **trustees?**

2 A No. That would have been at a board
3 meeting.

4 Q Okay. Why wouldn't it be in a written
5 recommendation to them?

6 A Because it wasn't an open public meeting.

7 Q Okay. So, it's your understanding that it
8 would be improper for you to make a written
9 recommendation in these documents that were
10 distributed to the board?

11 A Absolutely, yes.

12 Q Okay.

13 MR. SHULTS: Was the word proper or
14 improper? Was the word used in the question
15 proper or improper? I didn't -- I couldn't tell.

16 THE COURT REPORTER: Improper.

17 MR. SHULTS: Thank you.

18 MR. HENNESSY: And that was the intent.

19 BY MR. HENNESSY:

20 Q And was that your understanding, too?

21 A No. You'd have to --

22 Q Okay. The question was: Is it your
23 understanding that it would have been improper for
24 you to have provided a written recommendation to
25 these board members as to whether they should approve

**TRAILER ESTATES PARK AND RECREATION DISTRICT
PUBLIC RECORDS POLICY AND PROCEDURE**

PP 24

This policy shall provide for access to all public records, both generated and received, which are included in the transactions of the official business of the Trailer Estates Park and Recreation District. Official recordings of the meetings shall be made available for copying or inspection in the form in which they are maintained. Public records may have to be altered to redact exempt or confidential information, such as certain medical information, social security numbers, etc. If such information is redacted from requested records, the District shall provide a written explanation as to why the district believes the information is exempt or confidential.

A charge shall be made for providing the requestor with copies of documents or recordings of such meetings. Requests for information will be processed as soon as possible. All public records in possession of the District will be made available for inspection upon request. However, if the nature or volume of the request is such as would require either extensive clerical work to compile the requested records or extensive supervisory assistance, staff will work with the requestor to provide the records as soon as possible.

PUBLIC RECORDS PROCEDURE

Access

1. Request access to review public records. Complete Request Form, (OPTIONAL).
2. Discuss timetable for review with office manager.

Duplication/Copies

1. Request public documents. Complete Request Form, (OPTIONAL).
2. Discuss the fee and timetable with office manager. Fee is due when the request is satisfied.

Requests for information will be processed as soon as possible. All public records in possession of the District will be made available for inspection upon request. However, if the nature or volume of the request is such as would require either extensive clerical work to compile the requested records or extensive supervisory assistance, staff will work with the requestor to provide the records as soon as possible.

EXHIBIT

**TRAILER ESTATES PARK AND RECREATION DISTRICT
PUBLIC RECORDS POLICY AND PROCEDURE**

PP 24

DISTRICT OFFICE REQUEST FORM

This form is not required, and is only used to assist District Office staff in providing the requested documents. Fee is due when the request is satisfied.

Date _____ Requestor (optional) _____

Material Requested _____

Review Date/Time _____

Office Personnel/Trustee/District Designee _____

Date Completed _____

Date Picked Up _____ Fee _____ Paid _____

Notes _____

FEE SCHEDULE 2008

Copies: \$.10 per page, \$.15 two-sided page
Audiotape Cassette \$ 1.00 CD Disc \$1.25

Note: Public record requests requiring extensive clerical or supervisory assistance, extensive research (i.e. legal, paralegal, etc.), or extensive use of information technology resources may be charged an additional fee on a case by case basis.

**TRAILER ESTATES PARK AND RECREATION DISTRICT
PUBLIC RECORDS POLICY AND PROCEDURE**

PP 24

OFFICE PROCEDURE FOR PUBLIC RECORDS REQUESTS

1. When a request for public records/district documents is made, district staff may complete request form.
2. Questions may be asked about the request to clarify and facilitate completion of the request.
3. Requests will be fulfilled as soon as reasonably possible.
4. Public record requests will be handled in a professional, respectful, and courteous manner.
5. If the requested information is thought to be confidential or prohibited from being inspected by the public, district office staff will contact the Chairman of the Board of Trustees, who may consult with the Board Attorney. If the Chairman is unavailable, the 1st Vice or 2nd Vice will be contacted accordingly.
6. An additional fee may be charged for requests which require an extensive amount of clerical or supervisory assistance (more than 15 minutes), or an extensive use of information technology resources (for definition, see Government-in-the-Sunshine Manual, 2007 Edition, Volume 29, Part II: Public Records, Section L, Number 11b, p. 172).
7. Fees will be set according to the provisions of Florida Public Records Law, Chapter 119. Fees for requests requiring extensive assistance are calculated based on the information technology resources or labor costs actually incurred by the district (see Government-in-the-Sunshine Manual, 2007 Edition, Volume 29, Part II: Public Records, Section L, Number 11, p. 171- 172; Number 11c (1) and (2), p. 172 - 173).
8. Fees will be reviewed in January of each year.

C

TRAILER ESTATES PARK & RECREATION DISTRICT

TO: Board Members
FROM: John Vander Molen *JVM*
DATE: March 18, 2008
RE: Public Records Policy/Fees (FYI)

Attached is the fee schedule related to our public records policy that was adopted January 7, 2008. This page was designed to assist the office staff in their implementation of our policy, identifying specifics about the additional fee that may be charged.

EXHIBIT

**TRAILER ESTATES PARK AND RECREATION DISTRICT
PUBLIC RECORDS POLICY AND PROCEDURE**

PP 24

FEE SCHEDULE 2008

Copies: \$.10 per page, \$.15 two-sided page
Audiotape Cassette \$ 1.00 CD Disc \$1.25

Note: Public record requests requiring extensive clerical or supervisory assistance, extensive research (i.e. legal, paralegal, etc.), or extensive use of information technology resources may be charged an additional fee on a case by case basis.

ADDITIONAL FEE INFORMATION

Extensive Clerical or Supervisory Assistance

| | | |
|----------------|----------------------|--|
| Office Manager | 16 minutes or more | \$ 4.85 |
| | 30 minutes or more | \$ 9.75 |
| | 45 minutes or more | \$ 14.60 |
| | 60 minutes | \$ 19.50. |
| | More than 60 minutes | Prorated at the rate of \$19.50 per hour |

| | | |
|--------------|----------------------|--|
| Office Staff | 16 minutes or more | \$ 3.25 |
| | 30 minutes or more | \$ 6.50 |
| | 45 minutes or more | \$ 9.75 |
| | 60 minutes | \$ 13.00 |
| | More than 60 minutes | Prorated at the rate of \$13.00 per hour |

An additional fee may be charged for requests which require an extensive amount of clerical or supervisory assistance (more than 15 minutes), or an extensive use of information technology resources (for definition, see Government-in-the-Sunshine Manual, 2007 Edition, Volume 29, Part II: Public Records, Section L, Number 11b, p. 172).

Fees will be set according to the provisions of Florida Public Records Law, Chapter 119. Fees for requests requiring extensive assistance are calculated based on the information technology resources or labor costs actually incurred by the district (see Government-in-the-Sunshine Manual, 2007 Edition, Volume 29, Part II: Public Records, Section L, Number 11, p. 171- 172; Number 11c (1) and (2), p. 172 - 173).

May 29, 2008

To: John Vandermolen
Joe Salerno

Subject: Discussion on mailing Budget and Audit

The budget and audit were mailed together this year in April. I did not hear any public discussion on this decision or a vote by the board. The only discussion that I heard was the day I came into the office and the two of you were discussing it in the back room. This was prior to the budget mailing.

John, you asked me if I agreed with your opinion that you could do one mailing instead of two and you showed me section 12 of the Charter. You asked me what I thought about it and I told you I did not have my glasses and could not read what you were trying to show me. The sentences that you read to me were at the beginning of the paragraph, I believe that the pertinent part is at the end of the paragraph. Since I have been home and had a chance to review the charter I find the following:

“The trustees shall on or before April 1 of each year, prepare an annual financial statement of income and disbursements during the prior fiscal year.... “ (emphasis added)

“On or before April 1 of each year, the trustees shall prepare and adopt an itemized budget showing the amount of money necessary for the operation of the district for the next fiscal year,

“A copy of said statement and a copy of said budget shall also be furnished by mail to each taxpayer within the district within 30 days after its preparation

The changing of the fiscal year by the legislature must be factored into this section of the charter. The change in the fiscal year has created the discrepancy. If we were still on the January 1 fiscal year, it would be possible to send the statement and budget at the same time. The April 1 deadline is for the Park to get the assessment to the County. This no longer corresponds with our fiscal year; however, I do not believe that changes the language of this section of the charter. Our audit must be done after the end of the fiscal year and reported to the State. The charter, I believe is clear that the reports are sent within 30 days of preparation.

The phrase its preparation refers to both the budget and the statement and plainly states that it shall be furnished to each taxpayer within the district within 30 days.

EXHIBIT

Section 15. "The trustees shall supervise all real and personal property owned by the district, and shall have the following powers in addition to those already herein enumerated:" (emphasis added)

Section 17 of the Charter tells us that, "A record shall be kept of all meetings of the Board of Trustees and in such meetings a concurrence of a majority of said trustees shall be necessary for any affirmative action taken by the board....." (emphasis added)

I find no authority in the charter for a decision to be made to change the mailing of the two items other than by a public discussion and vote based on facts. A legal opinion would have protected the Board had they chosen to change to a one mailing a year with both the statement and budget documents in the same mailing.

I believe that this should have been a public discussion and a vote.

Thank you for the opportunity to address these two issues.

Sharon Denson

JVM

137

March 18, 2008

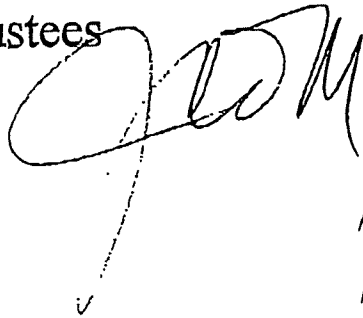
RE: Trustees & Employee cell phone numbers in case of emergency

Public Record Number 137 Office Memo Book 1

DATED: March 14, 2008

Trustees and Employees have stated concern about personal cell phone numbers being confidential and given out to the residents. This Public Record has been put in safekeeping and anyone wanting a copy of this will get a copy with the cell phone numbers redacted.

John Vander Molen – 1st Vice Chairman
Board of Trustees



Note: The Document is in the File Cabinet drawer with the blank checks & money box in a folder.

EXHIBIT