

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

CIRCUIT CIVIL CASE NO. 2008-CA-11315

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:
MARY LOU SMITH, an individual, and :
SHARON DENSON, an individual, :
:
Plaintiffs, :
:
vs. :
DEPOSITION OF
:
BEVERLY LEW
:
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. :
:
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TAKEN BY: THE DEFENDANT, TRAILER ESTATES PARK
AND RECREATION DISTRICT, HEREIN

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

DATE: May 26, 2009
Commencing at 9:30 A.M.

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

1 **Committee approves in terms of permits?**

2 A They put them up and approve them every month,
3 every meeting.

4 **Q The ARC Committee does?**

5 A The Architectural Review Committee does, yes.

6 **Q Right. And when they approve a permit, that**
7 **approval is not subject to approval by the Board of**
8 **Trustees; is it?**

9 A It only comes into effect when they sue people
10 who they do not permit.

11 **Q Was anybody sued as a result of any permit**
12 **denial in December of 2008 by the ARC?**

13 A I don't know, I think we have some ongoing
14 cases. I don't know what they are at this moment; I
15 probably have read them.

16 **Q Fair to say you don't know?**

17 A I don't remember verbatim right now. I could
18 probably find the information and look at it, but no.
19 They may or may not. We retain attorneys to take care
20 of that, and they do put liens on people's property for
21 not mowing their grass or whatever; they do that.

22 **Q Well, my question though is do you know if any**
23 **lawsuit resulted as a result of what the ARC Committee**
24 **did or didn't do at either the December, '08, or**
25 **January, '09, meetings?**

1 A I do not know that there's been any lawsuits
2 for that.

3 **Q Let's go down to Paragraph Nine of your**
4 **affidavit.**

5 **You reference December 2008. Is that a**
6 **correct --**

7 A That is exactly correct.

8 **Q Is that a correct date?**

9 A Well, yes, December; it was the very last
10 Policy and Procedures meeting.

11 **Q What day was that in December?**

12 A Huh. I'll have to go back and look for you.
13 It's on record. It was the very last meeting, and I
14 believe my name's in the Minutes. There were four
15 people in the room.

16 **Q All right. Who were the four people?**

17 A Terry, Janet, Martha, and myself.

18 You know, I think maybe Harry Splett came in
19 and left. I -- I know he came in one time late and
20 left, but he wasn't there for the whole meeting; just
21 in and out.

22 **Q Was there anyone observing the meeting other**
23 **than yourself who was not a member of the committee?**

24 A Nope. I went for one reason, to see if Janet
25 Jones and Martha Brauer would meet together and make

1 decisions that were going to go before the Board.

2 **Q Why did you have that purpose?**

3 A Because for over a year-and-a-half, I had
4 spoken quite a few times about -- at Board meetings
5 about the Sunshine violations. And they love to bully
6 and belittle you, and I was just making sure I got the
7 facts straight so that we could come back and discuss
8 it after they did it.

9 It's kind of like if I tell you you're going
10 to speed and get a speeding ticket and you speed, it is
11 offensive to me if you make fun of me for telling you
12 that you're going to get a speeding ticket.

13 **Q Did you talk to any of the Plaintiffs prior to**
14 **this meeting about your attendance at the meeting?**

15 A No. I don't even know where they were at the
16 time. I'm trying to think.

17 **Q You say in Paragraph Nine that Martha Brauer**
18 **and Janet Jones discussed matters. What specifically**
19 **did you hear with your own two ears Martha Brauer say**
20 **in her discussion with Janet Jones?**

21 A Martha was Chairing the meeting and taking
22 Minutes and writing things up, and they were doing PPs.
23 And Martha would do the PP and she would tell Janet
24 that it would have to be referred to the Board and
25 Janet would say she would take it, and they would write

1 it down to go on the Agenda for the next Board meeting.

2 **Q Anything else you remember about what Martha**
3 **Brauer said during this December 2008 meeting you make**
4 **reference to in Paragraph Nine?**

5 A Well, Bob wasn't there, he was ill, so I know
6 she said thank you to Terry before the end of the
7 meeting; she said it was their last meeting and that
8 there wasn't going to be, you know, a PP, Policy and
9 Procedure Committee anymore, and that was news to me
10 because they hadn't voted on it, and I thought that was
11 -- that was notable for me because that was my first
12 hint that they weren't going to have a committee
13 anymore.

14 **Q What do you remember Janet Jones saying to**
15 **Martha Brauer during this Policy and Procedure**
16 **Committee meeting you make reference to in Paragraph**
17 **Nine?**

18 A She would listen to the PPs, they would vote
19 on them; she would take the information, Martha would
20 sign it, Janet would sign it, and Martha would take it
21 back. It would go to the Board meeting from the Policy
22 and Procedures.

23 And, you know, they discussed several things.
24 They discussed the swimming pool; they had a whole list
25 of things they were going to do and a whole list of

1 things that they had been working on, and they wanted
2 to push through some of these before the January
3 meeting. So basically it was just a lot of exchange,
4 and I'm thinking maybe three PPs were going to be put
5 on the next Agenda.

6 **Q What Agenda would that be?**

7 A That would be the coming up meeting in
8 December and January.

9 **Q All right. Isn't that what the Policy and
10 Procedure Committee is supposed to do, and that is to
11 place proposed policies and procedures on the Board of
12 Trustees' Agenda?**

13 A They would be placing on the Agenda -- had Bob
14 been there, there would have been three people. They
15 had two votes that they were going forward with into
16 the next year from that committee, and people on the
17 Board would then be voting on them. And it was a very
18 limited committee.

19 **Q I'm just trying to figure out what your
20 understanding of the Policy and Procedure Committee is.**

21 A They write --

22 **Q They -- their job is not to finalize and put
23 into place policies and procedures, but rather to put
24 on the Board of Trustees' Agendas various proposed
25 policies and procedures; correct?**

1 A My interpretation of what a PP Committee is is
2 not what I felt like they were doing. I don't know how
3 many PPs have not passed.

4 Q All right. But the Policy and Procedure
5 Committee does not approve PPs, that's the Board of
6 Trustees; right?

7 A That's the Board of Trustees.

8 Q Okay. So I think you testified you remember
9 Martha Brauer telling Janet Jones during this December,
10 '08, meeting that several proposed PPs need to be put
11 on the Agenda; correct?

12 A Yes.

13 Q Okay. And Janet Jones being a member of the
14 Trustees, at the time that was something that was
15 important for her to know so she could actually get it
16 on the Agenda; correct?

17 A Yes.

18 Q All right. And it's a little unclear to me
19 what you're saying Janet Jones discussed with Martha
20 Brauer during this December of '08 meeting.

21 A They were discussing the PPs that they were
22 okaying; they were then scheduling them to go onto the
23 Agenda.

24 Q What did they -- what did Janet Jones say that
25 you interpreted it as a discussion of the PP, what did

1 she say to Martha Brauer?

2 A They would read a proposed PP, talk about it,
3 vote on the change -- talk about the changes, and then
4 vote on accepting that PP.

5 Q But Janet Jones wasn't a voting member of the
6 Policy and Procedures Committee; was she?

7 A She should not have been speaking, you're
8 correct.

9 Q No, my question is Janet Jones was not a
10 member of the PP who could vote in December of '08.
11 That's right, isn't it?

12 A That should have been right.

13 Q She was -- and she didn't vote on these PPs at
14 this --

15 A She's --

16 Q You'll have to let me finish my question.
17 She didn't vote on these PPs in December of
18 '08; did she?

19 A She discussed the PPs as a member of the
20 committee instead of as a liaison.

21 Q She --

22 A A liaison would have listened and taken it to
23 the Board without discussion.

24 MR. SHULTS: Yeah, we'll take a five-minute
25 break, probably less than that.

1 (There was a brief break.)

2 BY MR. SHULTS:

3 Q I'm just going to be a couple of more minutes.

4 A That's good.

5 Q Those are famous last words for a lawyer, by
6 the way, but I'll do it as quickly as I can.

7 Let's go down to Paragraph Ten of Exhibit Two,
8 which is your affidavit. Let me know when you're
9 through reading that to yourself.

10 A I'm going to tell you I think that they
11 finished up -- they really finished up in 2008, but
12 that started back in 2007, those meetings.

13 Q You're referring to the meetings in Paragraph
14 Ten?

15 A Yeah.

16 Q So do you want to make a correction to
17 Paragraph Ten?

18 A I think you put 2007 slash -- it didn't come
19 before the Board until 2008. It was a long process,
20 went on for months.

21 Q Now who prepared this affidavit?

22 A I did.

23 Q On your own typewriter or --

24 A No, I don't have a typewriter.

25 Q On your own computer?

1 A Do your question again for me.

2 **Q Can you tell me of a specific Board vote --**

3 A Uh-huh.

4 **Q -- that was taken --**

5 A Uh-huh.

6 **Q -- that you witnessed that you know two**
7 **Trustees met before that meeting and discussed about**
8 **the matter -- discussed the matter privately?**

9 A I know -- that's a very tricky question. Let
10 me explain this to you.

11 If I hear Martha and Harry talking about
12 Bingo, they're going to come up and okay the
13 expenditures for the month and they're going to buy
14 materials for Bingo and they're going to vote on that
15 on the Board, so that's how far it could go down to the
16 bottom of the pile all the way up to the top of the
17 pile when you're talking about usage of space.

18 **Q I'm asking you to tell me about a specific**
19 **instance where the Board voted on something that had**
20 **been previously discussed by two or more Trustees in**
21 **violation of the Sunshine Law.**

22 A Let me choose my exact --

23 I firmly believe the discussion between Harry
24 and Martha was not okay. I firmly believe that the
25 five Trustees that sit at the Future Planning Committee

1 meeting talking among themselves and joining in a
2 discussion of the Board of Future Planning which was
3 then voted on within the same month is a violation.
4 That's the best violation you've got that's current.

5 **Q That one vote regarding the Future Planning**
6 **issue?**

7 A That would be your best example --

8 **Q No, I want to --**

9 A -- that's current.

10 **Q Okay. So that's the only one though that**
11 **you're able to tell me about that you felt an**
12 **inappropriate meeting took place by two or more**
13 **Trustees before the vote?**

14 A No.

15 MS. COWAN: Objection to form.

16 THE DEPONENT: Okay.

17 BY MR. SHULTS:

18 **Q All right. We've talked about the one --**

19 A Every one that's in my deposition. I think
20 that McNulty and John refusing to allow me a copy or a
21 visual inspection of any record and discussing among
22 themselves whether to or not is a violation.

23 **Q No. What I'm talking about here, ma'am, is**
24 **the meeting law, not the public records law; okay?**

25 A Okay.