

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

CASE NO. 08 CA 11315
DIVISION: B

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, JOHN VANDER MOLEN, an
individual, JOSEPH SALERNO, an
individual, and MARY LOU MCNULTY, an
individual,

Defendants.

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DEPOSITION OF: MARTHA BRAUER,
TRAILER ESTATES PARK AND RECREATION
DISTRICT REPRESENTATIVE

(Volume II)

DATE: Friday, August 28, 2009

TIME: 9:49 a.m. - 5:03 p.m.

LOCATION: Kirk, Pinkerton, P.A.
1301 Sixth Avenue West
Suite 401
Bradenton, Florida 34205

REPORTED BY: NANCY E. PAULSEN, CRR, RPR, FPR
Notary Public
State of Florida at Large
US Legal Support
4350 West Cypress Street, Suite 701

U.S. Legal Support
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1 and Procedure Committee, what was your understanding of
2 the practice of the Video Computer Club regarding
3 providing copies to the District of board meetings?

4 A. There -- okay, I'm -- I'm trying to understand
5 exactly what the --

6 Q. Well, let me ask you a different question,
7 then.

8 A. Okay.

9 Q. When you were on the Policy and Procedure
10 Committee, the Video Computer Club had been providing
11 the District with copies of board meetings that they had
12 videotaped?

13 A. Some of the time, yes.

14 Q. Some of the time.

15 Was there a -- could you determine why they
16 were -- why it was not all of the meetings?

17 A. I can determine that now. I don't know that I
18 could determine that then.

19 Q. Okay. At any rate, did you personally, as a
20 member of the Policy and Procedure Committee, speak to
21 any trustees concerning whether or not the Board should
22 be receiving copies of the Video Computer Club
23 videotapes of board meetings?

24 A. Any trustee that would be at the meeting, I
25 would have spoken to.

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Q. Okay.

A. At the Policy and Procedure Committee meeting.

Q. Were there trustees attending the Policy and Procedure Committee meetings?

A. Yes.

Q. Okay. And when was this?

A. It would have been spring of 2007 and then into fall of 2007 that we worked on public records policy, so it would have been sometime during that time period.

Q. And which board members attended the Policy and Procedure Committee meetings?

A. Janet Jones.

Q. She is the only one?

A. No. There was one meeting which we asked John Vander Molen to come to.

Q. And he was a trustee at that time?

A. Yes, he would have been.

Q. And was Ms. Jones in attendance that same meeting that --

A. Yes, she was.

Q. You need to let me finish.

A. Oh, sorry.

Q. The meeting that you're describing, were both Janet Jones and John Vander Molen in attendance at the

1 **committee meeting?**

2 A. Yes.

3 **Q. And what was the purpose of that meeting?**

4 A. The purpose of that meeting was to get the
5 details. John Vander Molen had been a member of the
6 Video Club. And it was to get dates about the
7 historical perspective and how things are -- how they
8 obtained their video, how they make the videotapes, how
9 they get things copied. It was an information-gathering
10 session.

11 **Q. So Mr. Vander Molen answered your questions**
12 **concerning the Video Computer Club past practices?**

13 A. Oh, I can't answer that now. I mean, I don't
14 --

15 **Q. Okay, well, what --**

16 A. I mean, I can't say what -- what transpired in
17 '07 in terms of him answering my questions.

18 **Q. Okay. Well, did Mr. Vander Molen attend the**
19 **meeting and answer questions of the committee?**

20 A. Yes, he did.

21 **Q. And did Ms. Jones participate in that**
22 **discussion?**

23 A. I believe she was in attendance. I would have
24 to look at the minutes of the meeting.

25 **Q. You don't recall her -- what her participation**

1 was in that meeting at this time?

2 A. No.

3 Q. Okay. Now, did you personally ever recommend
4 to the board that they cease obtaining copies of
5 recorded meetings from the Video Computer Club?

6 A. No, I did not.

7 Q. Okay. Either in your personal capacity or in
8 the capacity of -- of your being a member of the Policy
9 and Procedure Committee?

10 A. The committee determined it wasn't in the best
11 interests of the District because we couldn't control
12 the video. When you say did I recommend it to the
13 Board, we never brought that to a board meeting.

14 Q. Did you bring it to a trustee?

15 A. No, I did not.

16 Q. Okay. Did the committee bring it to a
17 trustee?

18 A. Janet would have heard it, I mean, she was a
19 part of that committee, but not to another trustee, no.

20 Q. Did you bring it, that determination, to the
21 Video Computer Club?

22 A. I did speak to Bill Mumford.

23 Q. Okay. Who is Bill Mumford?

24 A. He is the cameraman.

25 Q. He is currently the cameraman for the Video

1 trustee committee, which trustee is responsible for the
2 Lease Committee?

3 A. The treasurer, Pam Cole.

4 Q. Okay. Is there a -- and which trustee is
5 involved with the Budget Committee?

6 A. The treasurer, Pam Cole.

7 Q. So the only trustee committees you're aware of
8 are -- were formed by the treasurer?

9 A. That I'm aware of, yes.

10 Q. Okay. What about the -- the Website
11 Committee, are you familiar with that?

12 A. There is no Website Committee at this time.

13 Q. Was there of a District Website Committee?

14 A. Yes, there was.

15 Q. Was it a trustee committee or was it a
16 standing committee?

17 A. Trustee committee.

18 Q. And who was the trustee that was responsible
19 for the Website Committee?

20 A. At one point, it was Mary Lou McNulty, and
21 then it was Bruce Smith.

22 Q. Okay. And do you know when this -- when was
23 the last year that a Website Committee existed?

24 A. 2008.

25 Q. Is there a district website?

1 A. Yes, there is.

2 Q. Is there a District policy concerning the
3 District website?

4 A. Yes.

5 Q. Are you familiar with that policy?

6 A. Yes.

7 Q. And does that policy govern the content that
8 will be placed on the District website?

9 A. Yes, it describes the content, yes.

10 Q. Does it describe how the District website will
11 be operated?

12 A. I'm not sure that the particular policy does.

13 MR. HENNESSY: What are we up to, 7?

14 THE COURT REPORTER: Um-hum (affirmative).

15 (Marked Deposition Exhibit 7.)

16 BY MR. HENNESSY:

17 Q. I'm showing you what's been marked Exhibit 7
18 to the deposition, a document that's titled "Trailer
19 Estates Park and Recreation District, District Website
20 Policy and Procedure, PP 47", and it's indicated that it
21 was adopted April 7th, 2008.

22 Do you recognize Exhibit 7?

23 A. Yes.

24 Q. Did you have any involvement in the drafting
25 of Exhibit 7?

1 A. Yes.

2 Q. Okay. Was that policy drafted as part of the
3 Policy and Procedure Committee you were a member of?

4 A. Yes.

5 Q. Okay. Is this the -- is this a current policy
6 of the District?

7 A. No, it is not.

8 Q. Is there a policy that has been written to
9 amend this policy that's in Exhibit 7?

10 A. Yes.

11 Q. And when did that amendment occur?

12 A. Late spring.

13 Q. Of this year?

14 A. Yes, 2009.

15 Q. How does the current policy differ from what
16 you have in front of you as Exhibit 7?

17 A. I believe it just states what will be on the
18 website.

19 Q. This policy discusses the existence of a
20 Website Committee; correct? Exhibit 7?

21 A. Yes.

22 Q. Does the current policy make reference to a
23 Website Committee?

24 A. No, it does not.

25 Q. Was the change in policy one adopted by the

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Board?

A. Yes, it was.

Q. Who currently operates the District website?

A. A webmaster and a web administrator.

Q. Who is the webmaster?

A. Lonnie Stanley.

Q. Who is the web administrator?

A. Shirley Klotz.

Q. Are these individuals employees of the District?

A. No, they are not.

Q. Do they receive any remuneration for their positions as webmaster or web administrator?

A. No, they do not.

Q. So they serve in these positions as volunteers?

A. Yes.

Q. How were they selected for these positions?

A. They were nominated and then the Board voted them in.

Q. When did that occur?

A. Late spring.

Q. At the same time that the policy and procedure was changed?

A. Yes, I believe at the same time.

1 Q. The Website Committee, then, was dissolved, I
2 guess, in the end of 2008?

3 A. Expired.

4 Q. Expired.

5 And was there ever a Website Committee during
6 2009?

7 A. No.

8 Q. Okay. Between the time that the Website
9 Committee expired and the new policy was adopted in late
10 spring of 2009, who was operating the District website?

11 A. A variety of individuals.

12 Q. Do you know the names of those individuals?

13 A. Ed Ogle, Bruce Smith, Barbara McNeil, Kay
14 Hislop, John White, Shirley Klotz, Lonnie Stanley, and
15 myself.

16 Q. Okay. Are you currently involved in operating
17 the website?

18 A. Yes.

19 Q. In what capacity?

20 A. I am the -- on the organizational chart, I am
21 the trustee responsible for those two administrative
22 volunteers, so I assist in the uploading of the
23 information.

24 Q. So you are responsible for putting information
25 on the District website?

1 A. I assist them.

2 Q. Well, who selects the information that will be
3 placed on the District website?

4 A. The policy.

5 Q. Who administers the policy?

6 A. Well, the Board does, but I'm the -- the
7 assigned trustee.

8 Q. Do you have meetings with the webmaster or the
9 web administrator?

10 A. On occasion.

11 Q. Are those public meetings?

12 A. No, they're not.

13 Q. Where do they -- where are they held?

14 A. My office.

15 Q. Have they always been held in District
16 offices?

17 A. District rooms, yes.

18 Q. Okay. Are the meetings that you have with the
19 webmaster or web designer -- I'm sorry, webmaster and
20 web administrator, are those meetings noticed?

21 A. No, they're not.

22 Q. Are minutes taken of those meetings?

23 A. No, they're not.

24 (Mr. Turffs left the room.)

25 BY MR. HENNESSY:

1 Q. Were there ever meetings with you and the
2 variety of individuals you've named that were working on
3 the website, you know, during that first part of 2009?

4 A. Yes.

5 Q. Were those meetings public meetings?

6 A. Yes. One was. I only attended one.

7 Q. Okay. And there were minutes from that
8 meeting?

9 A. I don't know if minutes were taken or not. I
10 wrote notes. I wouldn't call that minutes.

11 Q. Were your notes filed with the District?

12 A. No, they were not.

13 Q. Okay. Were you assigned to take the minutes
14 of the meeting?

15 A. No, I was not.

16 Q. Was the meeting advertised?

17 A. Yes.

18 Q. How?

19 A. It was on the Tribune calendar.

20 Q. And when did this meeting occur? The one --
21 the one meeting that you attended.

22 A. Early in January.

23 Q. And what was the purpose of that meeting?

24 A. I had asked the individuals to meet with me
25 and to learn about their different tasks related to the

1 website so that I could develop an informational manual
2 regarding the website. There is nothing formal written
3 about the website.

4 And they did not want to meet with me
5 individually, so they asked me to come to their meeting
6 that they had previously scheduled before their
7 committee expired.

8 Q. And so you attended that meeting?

9 A. Yes.

10 Q. And who else was in attendance at that
11 meeting?

12 A. John White, Bruce Smith, Barbara McNeil, Kay
13 Hislop, Ed Ogle, Shirley Klotz.

14 Q. And at that time, did you tell those
15 individuals that they were no longer working on the
16 website?

17 A. No, I did not.

18 Q. At that time, did you tell them that they were
19 -- their services were no longer needed?

20 A. No, I did not.

21 Q. At that time was it indicated to them that the
22 Website Committee was dissolved?

23 A. Yes.

24 Q. And was a new committee formed?

25 A. No.

1 Q. Did you have meetings with regard to the
2 website with any of these former members of the Website
3 Committee prior to the change in the District website
4 policy?

5 A. Could you restate that question?

6 Q. Well, I'm saying you said you attended this
7 one meeting of the former Website Committee.

8 A. Um-hum (affirmative).

9 Q. I'm sorry?

10 A. Yes.

11 Q. And -- but you said that they had had other
12 meetings, but you didn't attend those; correct?

13 A. Oh, I don't -- did I say they had other
14 meetings?

15 Q. Okay. Are you aware of other meetings by the
16 Website Committee --

17 A. No, I --

18 Q. -- without your attendance?

19 A. No, I'm not.

20 Q. Okay. Are you aware of meetings that you had
21 with some of these individuals concerning the website
22 other than this one meeting in January that you
23 discussed?

24 A. Yes.

25 Q. Okay. When did those meetings occur?

1 A. There was one meeting a couple of days prior
2 to that where I asked one of the members to explain to
3 me how the -- how the -- how the uploading -- how the
4 software worked. To prepare the informational manual, I
5 felt that I needed to, you know, to gain as much
6 knowledge as I could so that I could write an
7 informational manual regarding our website. And so I
8 met with Shirley Klotz.

9 **Q. Where did this meeting take place?**

10 A. At her home.

11 **Q. Was anyone else in attendance?**

12 A. No.

13 **Q. Did you have any other meetings with members
14 of the Website Committee? I'm sorry, let me step back.
15 The meeting with Shirley Klotz in her home, do you know
16 when that occurred?**

17 A. A couple days prior to the -- the early
18 January meeting with the members of the --

19 **Q. Okay.**

20 A. -- past committee.

21 **Q. Okay. And what other meetings did you have
22 with the members of the Website Committee?**

23 A. I did not have any other meetings with the
24 members of the past committee.

25 **Q. Okay. Did you have any other meetings like**

1 **you had with Shirley Klotz?**

2 A. Yes.

3 **Q. Okay. Describe them for me.**

4 A. After the website disappeared and had to be
5 rebuilt, I met with Shirley Klotz to rebuild it.

6 **Q. Okay. So you're saying that the website
7 itself ceased to exist?**

8 A. We were locked out of it, so we had to rebuild
9 a new website.

10 **Q. When you say "we", who is "we"?**

11 A. The District.

12 **Q. Okay. And how were you locked out of the
13 website?**

14 A. In order to run a website, you have to have an
15 upload password, and we were -- the password was
16 changed.

17 **Q. And who changed the password, if you know?**

18 A. Dan Smith.

19 **Q. So you had a subsequent meeting with Shirley
20 -- a second meeting with Shirley Klotz once the website,
21 as you say, disappeared?**

22 A. Yes.

23 **Q. Where did this meeting -- when did this
24 meeting happen?**

25 A. We're not talking about one meeting. We had

1 to rebuild the website.

2 Q. So you had a number of meetings with Miss
3 Klotz?

4 A. A number.

5 Q. Was there anyone else in these meetings
6 besides Miss Klotz?

7 A. Yes.

8 Q. Who?

9 A. Lonnie Stanley.

10 Q. Anyone else?

11 A. Not to my recollection.

12 Q. And when --

13 A. Oh.

14 Q. Yes, go ahead.

15 A. Ed Ogle.

16 Q. In these meetings that you had with Shirley
17 Klotz, Lonnie Stanley, and Ed Ogle, when did they occur?

18 A. Throughout the spring.

19 Q. Okay. Were any of these meetings public
20 meetings?

21 A. No, they were not.

22 Q. So you didn't advertise them or take minutes?

23 A. No.

24 (Mr. Turffs entered the room.)

25 BY MR. HENNESSY:

1 Q. Were they held in public places?

2 A. They were in -- in -- on public -- on District
3 property, yes.

4 Q. Were any of the meetings also held in your or
5 the other individuals' homes?

6 A. No, I believe they were all on District
7 property.

8 Q. Okay. Did you reestablish a District website?

9 A. Did I reestablish -- I rebuilt a website.

10 Q. Well, let's put it this way. Does the
11 District have a website that's operating today?

12 A. Yes.

13 Q. When did that go back online?

14 A. Initially, I believe mid March, mid to late
15 March, the first page was up. I would say the -- I
16 can't say when the full website was, but the first page
17 went up I believe in mid March.

18 Q. Okay. And how long was the website up and
19 operational before the website policy that's Exhibit 7
20 was modified?

21 A. Maybe a month and a half.

22 Q. How is content for the District website -- or
23 let me strike that and start again.

24 How does content get put on the District
25 website? And I don't mean the technical process, I mean

1 **the procedural process for an individual to get**
2 **something placed on the District website.**

3 A. For an individual?

4 Q. Well, maybe that's not an appropriate
5 **question. Let me ask you this question.**

6 A. Okay.

7 Q. What goes on the website today?

8 A. District calendar for activities, the agendas,
9 the meeting minutes, the Board bullets. The website has
10 some current pictures of the district. Phone numbers.
11 Some District events are on the website.

12 Q. Okay. How is that information edited or
13 **otherwise selected for publication on the website?**

14 A. The District defines what would be up there in
15 that policy, and so then I might contact the treasurer
16 and I'll say I'm ready to upload some sort of
17 financials, what's your, you know, most important
18 report, let's start with that.

19 She'll PDF it to me or she'll send it to me in
20 original form. I'll PDF it or web page it. And I'll
21 either upload it myself or send it to the web
22 administrator to upload it.

23 Q. So the information that's being put on the
24 **website is information you go out and solicit from other**
25 **trustees?**

1 A. Well, from the District office, yes.

2 Q. Okay. In other words, is there a box at the
3 District office for people to place things in that they
4 want put on the District website?

5 A. There is an old box.

6 Without looking at the new policy right now, I
7 can't -- I can't remember if there is a procedure listed
8 for that.

9 Q. Okay. So your practice with the District
10 website, though, has been to solicit from other trustees
11 information they might want placed on the website?

12 A. No.

13 MR. TURFFS: Object to form.

14 BY MR. HENNESSY:

15 Q. Has it been your practice, then, to identify
16 information you would like on the website and approach
17 other trustees about that information?

18 A. No.

19 Q. Okay. Well, I thought you'd just described an
20 instance where you will contact Pam Cole, who is the
21 treasurer of the District, and say that you'd like to
22 put financial information uploaded on the website.

23 A. Yes.

24 Q. So who has made that decision that financial
25 information should be put on the website?

1 A. It's in the policy.

2 Q. So the policy details a limited amount of
3 information that will be put on the website?

4 A. Yes.

5 Q. Okay. And so you just go about finding the
6 people in possession of that information and updating it
7 occasionally?

8 A. At the current time, I'm trying to set up a
9 system, but again, we were locked out of the website,
10 and so nothing happens immediately.

11 I mean, it's a process to build a website, and
12 then it's a process to set up a system so that the
13 District information -- so the maximum amount of
14 information from the District and the most efficient
15 process for that can be designed.

16 Q. Okay.

17 A. So.

18 Q. Other than the District voting on the website
19 policy, does the District -- has the District
20 entertained any votes on information requested to be
21 placed on the website?

22 A. I proposed a vote. I did not follow through
23 with it.

24 Q. Okay, what do you mean by you proposed a vote?

25 A. Well, I received a request from a resident --

1 from a club. In that the website was still being
2 developed, it was not -- I mean, we had to rebuild it.
3 So I was in the process of rebuilding. I wrote a memo
4 to various trustee -- to the trustees, and -- based on
5 this request from a club, I believe it was from a club.

6 And I -- after writing the memo, sending it
7 out, I reflected a little bit more on it and determined
8 that -- that in that we were in a transitional period,
9 that the website hadn't been built yet and that we
10 really didn't have an active policy or -- that we didn't
11 have a policy that was congruent with our -- with what
12 was going on, I didn't do anything with that particular
13 memo then.

14 **Q. Did the memo go out to the trustees?**

15 A. Yes, it did.

16 **Q. Did it request a vote?**

17 A. Yes, it did.

18 **Q. Did you receive responses to that request?**

19 A. I did not.

20 **Q. Do you know if the District -- any of the**
21 **District trustees did respond to that request for a**
22 **vote?**

23 A. Yes.

24 **Q. And where did those responses go?**

25 A. TJ filed them.

1 **Q. And you've never seen them?**

2 A. Not -- I didn't -- I didn't compile it, no, I
3 did not. I have seen sheets -- those sheets of paper.

4 **Q. Was the requested information placed on the**
5 **website?**

6 A. No, it was not.

7 **Q. Was there ever a vote at the Board level on**
8 **placing that information on the website?**

9 A. No, there was not.

10 **Q. And by a vote, I meant a public vote at a**
11 **board meeting.**

12 A. No, there was not.

13 **Q. Okay.**

14 MR. SHULTS: I think I've got 12:05, so
15 whenever it is a convenient time to break for
16 lunch.

17 MR. HENNESSY: I think I have just a couple of
18 more questions here with regard to the website.

19 BY MR. HENNESSY:

20 **Q. Has -- have there been expenses incurred since**
21 **you've been chair with regard to the website?**

22 A. Yes, there have.

23 **Q. What purchases have been made?**

24 A. Three or four, five different items that the
25 webmaster requested.

1 Q. The webmaster being Lonnie Stanley?

2 A. Yes.

3 Q. Do you know about how much money has been
4 spent for that equipment?

5 A. Less than \$700, I believe.

6 Q. Did the Board vote on approving those
7 purchases?

8 A. Yes, they did.

9 Q. And that was done at a public board meeting?

10 A. Yes, it was.

11 Q. Okay. Do you know who purchased the
12 equipment?

13 A. I believe I'm the one that actually made the
14 purchase.

15 Q. So is the website directly under the control
16 of the District?

17 A. Yes.

18 Q. Has that always been the case?

19 A. I believe so, yes.

20 Q. Okay. So it's not a function that was, say,
21 being operated by the Video Computer Club?

22 A. No, it was not.

23 Q. Okay. Does the website allow advertisement to
24 be placed on it?

25 A. I don't -- I don't believe so.

1 MR. HENNESSY: Why don't we take a break at
2 this time. You want to reconvene basically 12
3 o'clock -- or 1 o'clock?

4 MR. SHULTS: 1 o'clock.

5 (Recess taken from 12:08 p.m. to 1:06 p.m.)

6 MR. HENNESSY: Back on the record.

7 BY MR. HENNESSY:

8 Q. Just a couple of quick followup questions with
9 regard to the current policy with the website. What are
10 the duties of the webmaster?

11 A. There is a whole page, I'd have to look at it
12 and see.

13 Q. But you defined it in your recent policy?

14 A. In a separate policy.

15 Q. Okay. A policy that's been adopted by the
16 Board?

17 A. Yes.

18 Q. Similarly, is there a definition of the web
19 administrator's responsibilities?

20 A. The web administrator and the webmaster are on
21 the same policy -- are defined on the same policy.

22 Q. Okay. And is there something that defines
23 your responsibilities with regard to the Web Committee?

24 A. Okay, you just called it a Web Committee, so I
25 have --

1 Q. I'm sorry.

2 A. Yeah, just --

3 Q. With regard to the website, is there something
4 that defines your responsibilities currently?

5 A. I believe it just says that I oversee the
6 administrative volunteers who -- which are the webmaster
7 and the web administrator.

8 Q. Okay. And that's in the policy defining the
9 duties of the chairman?

10 A. No, it's in the policies defining the duties
11 of the webmaster and the web administrator.

12 Q. Okay. So it defines the role of the trustee?

13 A. Yes.

14 Q. And is that trustee given a designated name?

15 A. It is the chair. For that particular -- for
16 those two administrative volunteers, it is definitely
17 the chair.

18 Q. Okay. Can any materials be placed on the web,
19 the District website without your approval?

20 A. "Your" meaning the Board or "your" meaning me?

21 Q. "You" meaning you as chairman.

22 A. I believe the webmaster and web administrator
23 can put things on as long as it's within the parameters
24 of the policy.

25 Q. Is that the current practice, that they have

1 placed things on the website without your approval?

2 MR. TURFFS: I'm just going to object to the
3 form.

4 A. I have not -- I don't approve -- I mean, they
5 don't ask for my approval.

6 BY MR. HENNESSY:

7 Q. Okay. So the material that goes on the
8 website doesn't get any kind of review and okay by you?

9 A. Right, it does not.

10 Q. So any one of the three of you can just put
11 something on the website provided it fits with the
12 policy that's been adopted by the Board?

13 A. Yes.

14 Q. Can anyone else put anything on the website?

15 A. There is in the policy a phrase which was
16 recently pointed out to me that needed more added to it
17 that gives an opportunity for individuals to submit
18 their suggestions to the District.

19 But it doesn't say in the policy what we're
20 going to do with those suggestions, so I need to further
21 refine that policy, but that phrase is in the policy
22 right now.

23 Q. Okay. When we were talking about the various
24 committees that exist, that formerly existed, you didn't
25 mention the Policy and Procedure Committee. Is that an

1 **Q. Okay. So you raised an objection to producing**
2 **it from your personal standpoint?**

3 A. I asked my personal attorney to look into it.

4 **Q. Okay. Do you know if he contacted the**
5 **District?**

6 MR. SHULTS: You don't have to reveal any
7 information that you obtained from your personal
8 attorney, including whether or not he contacted the
9 District.

10 THE DEPONENT: Okay.

11 BY MR. HENNESSY:

12 **Q. So you're not going to answer that question?**

13 A. I haven't gotten my bill back from him yet.

14 **Q. Okay. So you don't know?**

15 A. (Nods head affirmatively.)

16 **Q. You don't know?**

17 A. I don't know at this point.

18 **Q. Okay. Does the District have a policy with**
19 **regard to channel 95?**

20 A. Policy. There is no policy in the
21 policy/procedure manual regarding channel 95.

22 **Q. Does the District exercise any control over**
23 **the content on channel 95?**

24 A. No.

25 **Q. Does anyone with the District, either a**

1 trustee or an employee, review for approval or rejection
2 any of the content that goes on channel 95?

3 A. No, we do not.

4 Q. Do you have any knowledge as to what the
5 process is for getting information on channel 95?

6 A. Yes, I do.

7 Q. What is your understanding?

8 A. Items that are going to go on 95 are brought
9 into the office by 11 a.m. on Wednesdays in the summer,
10 11 a.m. on Tuesdays during the year. The Video Club
11 comes and picks those up, and then they go and put them
12 up.

13 Q. Okay, so by the office, you mean the District
14 office?

15 A. Yes.

16 Q. To your knowledge, has any trustee been
17 involved in deciding whether or not information can be
18 placed on channel 95?

19 A. To my knowledge, has any trustee been involved
20 -- no.

21 Q. No, you don't know; or no, to your knowledge,
22 no District trustee has been involved with regard to
23 content on channel 95?

24 A. No District trustee has the responsibility in
25 regard to the content.

1 Q. Okay. Well, regardless of whether they've
2 specifically been delegated the responsibility, do you
3 know if any District trustee has actively taken it upon
4 him or herself to decide on content on channel 95?

5 A. I know that no trustee does that.

6 Q. Okay. Do you know if any member of the Video
7 Computer Club is also a trustee?

8 A. I don't know the member of the club at the
9 current time.

10 Q. To your knowledge, does the Video Computer
11 Club ever reject information that's been requested to be
12 put on channel 95?

13 A. I don't know.

14 Q. Okay. Have you ever personally placed
15 anything on channel 95 on behalf of the District?

16 A. Yes.

17 Q. Is there a form that you have to fill out?

18 A. Yes.

19 Q. Do you know who developed that form?

20 A. No, I do not.

21 Q. Are those forms that get submitted to the
22 District office?

23 A. Yes.

24 Q. Does the District keep copies of those
25 submissions?

1 A. We do now.

2 **Q. When did you start keeping copies of those**
3 **submissions?**

4 A. Within the last couple months.

5 **Q. And why are you now doing -- keeping copies?**

6 A. Well, it's a drop-off point for the Video
7 Club, but in the fact that it's in the office, is it
8 technically a public record. I mean, it -- it's a
9 drop-off point for the Video Club. It's a central
10 location where they can get the forms that people have
11 submitted.

12 The question arose, TJ and I were talking
13 about, you know, this folder that gets filled and
14 emptied every week, and I said to her, "Are you keeping
15 copies of those?" And she said, "No." And I said,
16 "Well, maybe we need to be doing that."

17 I haven't legally asked for an opinion
18 regarding that.

19 **Q. So sometime in 2009, you directed TJ to retain**
20 **a copy for the District files of materials that had been**
21 **being submitted for placement on channel 95?**

22 A. Yes.

23 **Q. To your knowledge, has she been doing that?**

24 A. Yes.

25 **Q. Is there a similar situation with regard to**

1 **the Tribune?**

2 MR. CARROLL: Form.

3 BY MR. HENNESSY:

4 **Q. That being there being a drop -- is there a**
5 **drop-off box for people that wish to submit**
6 **contributions to the Tribune in the District office?**

7 A. Yes.

8 **Q. Are those records been maintained by the**
9 **District?**

10 A. Those records, the items that are dropped off?

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

12 A. Yes, now they are, yes.

13 **Q. Okay, when did the District start maintaining**
14 **copies of records of submissions to the Tribune?**

15 A. I can't accurately answer that. I -- I -- I
16 can't.

17 **Q. Is it something that you've started in 2009?**

18 A. I believe it did arise -- I think it was
19 through 2 -- I think it was 2009 that it started.

20 **Q. Do you consider channel 95 to be a function of**
21 **the District?**

22 A. Channel 95 is our local access channel. It's
23 in our contract with Bright House. You're kind of
24 asking for a technical question here.

25 **Q. Do you consider channel 95 to be an amenity**

1 **provided to District residents by the District?**

2 MR. SHULTS: Object to form.

3 A. It's something that the residents like to
4 have, it's a good way to communicate information. It
5 happens to have occurred through the contract with
6 Bright House.

7 An amenity? That's -- that's --

8 BY MR. HENNESSY:

9 **Q. Have you looked at the District bylaws or the**
10 **District charter with regard to whether the District has**
11 **a responsibility to provide the residents with**
12 **television service?**

13 A. Yes, I have.

14 **Q. And what is your understanding of that**
15 **responsibility?**

16 A. I believe it was announced at a public
17 meeting, so I will share this. I spoke with the legal
18 counsel this year regarding our television contract,
19 because we were getting ready to write the television
20 contract, so I wanted him to look at any and all aspects
21 of, you know, what obligations we have, etcetera.

22 And he informed me that we're not obligated to
23 provide television services, according to our charter.
24 And I believe I stated that at a meeting.

25 **Q. Is it your understanding that the District has**

1 assumed the responsibility to provide television service
2 to the District, District residents?

3 A. Yes.

4 Q. Is it your understanding that the District has
5 assumed the responsibility of providing channel 95 to
6 District residents?

7 A. In this particular contract with this
8 particular company, Bright House, we have built that in.

9 Q. And does channel 95 regularly provide
10 information to District residents regarding District
11 governance?

12 A. Board meeting notices and agendas.

13 Q. Yes, ma'am.

14 A. Yes. They're placed on the television
15 station.

16 Q. And actual film of board meetings?

17 A. Yes.

18 Q. That's also provided?

19 A. Yes, film of board meetings, yes.

20 Q. Okay. And also live coverage of board
21 meetings?

22 A. Yes.

23 Q. To your knowledge, does channel 95 currently
24 provide taped rebroadcast of District board meetings?

25 A. No, it does not.

1 Q. Do you know why?

2 A. The technician who handles that equipment is
3 not here right now.

4 Q. Has the contract -- has a new contract with
5 Bright House been approved by the Board?

6 A. Yes.

7 Q. And when did that occur?

8 A. When I was up north. June, I believe June.

9 Q. The summer of 2009?

10 A. Yes.

11 Q. The technician that you indicated that is no
12 longer at the District, is he just a part-time resident?

13 A. He has another home that he goes to.

14 Q. Okay. Who is that technician?

15 A. Lonnie Stanley.

16 Q. Is he the same Lonnie Stanley that's the
17 District webmaster?

18 A. Yes.

19 Q. Is the technician position considered a Board
20 -- or District volunteer position?

21 A. That's a function of the Video Club.

22 Q. Okay.

23 A. I have nothing to do with that.

24 Q. With regard to the Tribune, have you ever
25 personally as chair of the District made a determination

1 **concerning whether information is appropriate to be**
2 **placed in the Tribune?**

3 A. No, I have not.

4 **Q. Have you ever been asked to make that**
5 **determination?**

6 A. I don't believe so.

7 If there is something I could review, I would
8 be able to tell you.

9 MR. HENNESSY: Let me go ahead and have this
10 marked as Exhibit 9.

11 (Marked Deposition Exhibit 9.)

12 THE DEPONENT: I don't need to see it.

13 BY MR. HENNESSY:

14 **Q. I've shown you Exhibit 9, a two-page document,**
15 **the first page being dated November 18th, 2007,**
16 **addressed to the Trailer Estates Board of Trustees. Do**
17 **you recognize that document?**

18 A. Yes, I do.

19 **Q. The first page, the cover letter, is that a**
20 **letter you prepared?**

21 A. Yes, it is.

22 **Q. And you provided it to the District Board of**
23 **Trustees?**

24 A. Yes, I did.

25 **Q. How did you -- did you hand deliver it to the**

1 meeting to the public.

2 Q. And did that -- has that changed date been
3 readvertised?

4 A. Yes.

5 Q. Were these conversations with Mr. Vander Molen
6 in person or on the phone?

7 A. A couple of them were in person, a couple were
8 on the phone.

9 Q. The ones that were in person, were they at the
10 District office?

11 Or let me ask it differently. Where were they
12 held?

13 A. At the District office.

14 Q. Was anybody else present in those meetings?

15 MR. SHULTS: Object to form.

16 MR. SCOTT: Join.

17 A. No, nobody else was there.

18 BY MR. HENNESSY:

19 Q. Okay. Was anyone else on the phone in your
20 phone conversations with Mr. Vander Molen?

21 A. Not that I'm aware of.

22 Q. Okay. Have you had any other meetings with
23 District trustees since your last deposition?

24 A. I met with Harry Fitzpatrick related to lawn
25 cutting one day in the office, and I believe that was

1 after my deposition.

2 Q. What was the purpose of that conversation?

3 A. To inform Harry that he needed to fulfill his
4 duties as a trustee, that there were numerous complaints
5 that were coming to the office, and I wanted to
6 reacquaint him with his duties within PP 40.

7 Q. By complaints, you mean complaints about the
8 condition of peoples' lawns?

9 A. Yes.

10 Q. So he was not, in your mind, properly
11 regulating the condition of peoples' lawns within his
12 area of responsibility?

13 A. He was not following his duties --

14 Q. Okay.

15 A. -- within PP 40.

16 Q. And what was the result of that conversation?

17 A. Well, he's now turning in lawns.

18 Q. Okay. And by "turning in lawns", is that
19 something that gets brought before the Board to take
20 action on?

21 A. No.

22 Q. He's issuing letters to property owners?

23 A. Yes.

24 Q. Have you had any other meetings with trustees
25 about board business since the deposition?

1 MR. SHULTS: Object to form.

2 A. None with Margo, none with Janet, that one
3 with Harry, nothing with Fred.

4 Fred came in my office one day and asked me
5 about the storage lot lease. I said if there was any
6 consideration that the Board needed to take on that, he
7 needed to fill out a PP 34 form. I pulled out the form.
8 We -- I wrote it up. He signed it. And it got
9 submitted for a -- a -- for a workshop.

10 And then I did notice subsequent to that, he
11 filled out a PP 34 form on his own, on a different item.
12 So I did meet with Fred for a couple minutes.

13 BY MR. HENNESSY:

14 Q. What is a PP 34 form?

15 A. It's an agenda item form.

16 Q. The conversation that you asked him about
17 concerning a storage lot lease, what was the specifics
18 about that?

19 A. Okay, he asked me. He came to me --

20 Q. Okay.

21 A. -- and said, "I would like to put the storage
22 lot lease" -- "I would like to change the specifics in
23 the" -- he didn't use the word "specifics". He would
24 like to change the storage lot lease to include other
25 vehicles.

1 I said, "You would need to bring that up for a
2 vote at a meeting." And I said, "Do you want to bring
3 it up soon, later?" He said, "Soon." I said, "Why
4 don't we fill out a PP 34 form right now." I grabbed
5 it, wrote it with him. He signed it. It went up on the
6 hook. Subsequently ended up at a meeting that I wasn't
7 at.

8 **Q. Okay. Have you had any other meetings with**
9 **District trustees concerning Board business since your**
10 **deposition?**

11 MR. SHULTS: Object to form.

12 A. That's all I can remember at the moment.

13 BY MR. HENNESSY:

14 **Q. Okay. Well, have you had any discussions with**
15 **other District trustees since your last deposition where**
16 **District business was discussed?**

17 A. I have talked with John Vander Molen about
18 tasks that I needed him to do for me that I couldn't do
19 while I was gone, beyond just the pending items or the
20 -- like the Bright House -- the contract from June.

21 During this compilation of the discs, I
22 started the project, but was not able to take it to the
23 man that could do the technical work. I asked John
24 first to find me a technical man, since he's proficient
25 in computer stuff. He gave me the name of the man, made

1 the contact. Then when I left town, he's the one that
2 took the items that needed to be copied. And he's done
3 a couple of trips.

4 I have called the computer man on the phone,
5 the DVD/audio tech on the phone, we've talked on the
6 phone. I've sent some faxes to the office of things
7 that needed to be sent to the video man, audio man,
8 so -- administrative things in order to complete that
9 project.

10 **Q. Okay.**

11 A. So it's not voteable -- nothing that we're
12 voting on, just an administrative task.

13 **Q. Okay. Any other discussions about District**
14 **business since your last deposition in May?**

15 A. John has called me. I think John called me to
16 make sure I had posted the bylaw amendments that are
17 coming up for vote, he said -- he called to make sure
18 that it was posted, the 21 day, and I said, "Yes, I took
19 care of that."

20 You know, that's the most recent stuff that I
21 can recollect.

22 **Q. Okay. Had you posted the bylaws?**

23 A. Yes. Yes, I had.

24 **Q. Before Mr. Vander Molen called you?**

25 A. Yes.

1 **Q. And "he" would be currently John Vander Molen?**

2 A. John Vander Molen, yes.

3 **Q. What about employees within the District**
4 **office?**

5 A. I would have to look again at the chair's
6 duties. It does not talk specifically about employment,
7 but it does talk about supervising the office. I'm not
8 sure that within our structure we have that defined
9 specifically for the office as of yet.

10 **Q. Does the District also pay volunteers who**
11 **assist at District functions or events?**

12 A. The District does not pay volunteers, as far
13 as I'm aware.

14 **Q. Well, maybe the use of the "volunteer" is a**
15 **bad term. Do you have residents that you pay to assist**
16 **in putting on events or functions?**

17 A. I know instructors for classes, whether
18 they're residents or nonresidents, do receive some sort
19 of remuneration, and I don't know the specifics
20 regarding that.

21 There is a PP on it that -- policy and
22 procedure that we are going to be reviewing this fall.
23 I really haven't looked into depth in that area right
24 now.

25 **Q. The conversation that you were discussing with**

1 **Fred Hoch concerning putting a matter on the agenda?**

2 A. Um-hum (affirmative).

3 **Q. Do you recall when that occurred?**

4 A. The storage lot lease? Between July 29th and
5 August 4th.

6 **Q. Was that a discussion that you had in person
7 or on the telephone?**

8 A. In person. I was here those days.

9 **Q. All right. Do you recall having a
10 conversation with Fred Hoch in January of this year
11 where -- regarding the -- putting matters on the Trailer
12 Estates board meeting agenda?**

13 A. I've had a few with him regarding that.

14 **Q. Do you recall one that would have occurred on
15 January 27th, 2009, when my clients were at the District
16 offices?**

17 A. I only recollect it because it's been
18 mentioned quite a lot.

19 **Q. Do you recall what that conversation was
20 about?**

21 A. No, I do not.

22 **Q. Do you recall asking Mr. Hoch to quit talking
23 when my clients were present?**

24 A. I only know that because they have said that.
25 I do not recollect that myself.

1 **Q. Okay. Do you recall, though, having a**
2 **conversation with Mr. Hoch at that time in the presence**
3 **of my clients?**

4 A. I do remember a day when we were in the
5 breezeway. Was this in the -- I remember being in the
6 breezeway, and I remember them walking by and me saying
7 shush because they're -- they have a lawsuit against us,
8 and I don't want to talk when they're around.

9 **Q. Okay. So you don't recall what you were**
10 **talking about --**

11 A. No.

12 **Q. -- with Mr. Hoch?**

13 A. No, I do not.

14 **Q. Okay. Do you recall when Mr. Harry**
15 **Fitzpatrick was selected to become a trustee?**

16 A. The second time?

17 **Q. When you were on the board.**

18 A. Yes.

19 **Q. And was there anyone else nominated besides**
20 **Mr. Fitzpatrick to fill that vacancy?**

21 A. Yes, I believe there was.

22 **Q. Do you recall who that was?**

23 A. I believe it was Jim McElveen.

24 **Q. Okay. Prior to the meeting, did you -- were**
25 **you aware that Mr. Fitzpatrick was being considered for**

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minutes.

BY MR. HENNESSY:

Q. Are you familiar with a laundry survey that was done by the District?

A. I don't believe it was done.

Q. Okay. Are you familiar with a budget questionnaire that was done by the District?

A. Yes.

Q. Do you know who prepared that budget questionnaire?

A. Yes.

Q. Who?

A. Me.

Q. Who assisted you in preparing that questionnaire?

A. No one.

Q. You did it all on your own?

A. Yes.

Q. Were you -- who requested that you prepare the budget questionnaire?

A. No one. I volunteered.

Q. Did you solicit information from any trustees in preparing that questionnaire?

A. Yes.

Q. Who?

1 A. Joe Salerno.

2 Q. Anyone else?

3 A. No.

4 Any other trustee? No.

5 Q. Yes, ma'am.

6 A. There were other individuals.

7 Q. That you solicited information with, but they
8 were not trustees?

9 A. Right.

10 MR. HENNESSY: That's all I have. Thank you
11 for your time. I understand others may have
12 questions or may not.

13 MR. SCOTT: This is Dan Scott representing
14 John Vander Molen. I wouldn't have any questions
15 of this witness. Thank you.

16 MR. DYE: I have no questions.

17 MR. CARROLL: No questions.

18 CROSS-EXAMINATION

19 BY MR. TURFFS:

20 Q. Bob Turffs representing Joe Salerno.

21 You just mentioned Joe Salerno in regards to
22 discussing something about a survey. When did that
23 occur -- or let me ask it this way. At the time that
24 you had that conversation with Joe Salerno, were you a
25 trustee or a trustee elect at the time?