

IN THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CIVIL DIVISION

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 VANDERMOLEN,
an individual, JOSEPH SALERNO,
an individual, and MARY LOU
MCNULTY, an individual,

Defendants.

DEPOSITION OF PEGGY ANN DURHAM
Volume I of I
Pages 1 through 164

Monday, December 21, 2009
8:30 a.m. to 12:21 p.m.
Kirk-Pinkerton
50 Central Avenue, Suite 700
Sarasota, Florida 34236

Stenographically Reported By:
FRANCES CHIPPENDALE

U.S. Legal Support
(813) 876-4722

1 A. No.

2 Q. No, because you can't recall those
3 conversations or no, because you just don't want to
4 share them with me here today?

5 MR. CARROLL: Form.

6 A. My talks with Janet Jones were mostly about her
7 health, because she was not in good health.

8 MR. HENNESSY: Let's have this marked as
9 Exhibit 3.

10 (Plaintiffs' Exhibit Number 3 was marked for
11 Identification.)

12 BY MR. HENNESSY:

13 Q. Ms. Durham, can you take a moment and look at
14 Exhibit 3? It's a letter dated October 30, 2006 that
15 was prepared by Janet Jones.

16 MR. CARROLL: Form.

17 A. I don't remember ever seeing this, but it's got
18 my name on it.

19 Q. Yes. Is that your handwriting --

20 A. No, it is not.

21 Q. -- on Exhibit 3? It's not?

22 A. No, it's not.

23 Q. Do you know whose handwriting it is?

24 A. No, I don't.

25 Q. Well, do you recall Ms. Jones making any of the

1 statements in Exhibit 3?

2 A. No.

3 Q. Do you recall Ms. Jones making a motion to the
4 Board to hire the Kirk-Pinkerton law firm because they
5 specialized in legislative law to assist in solving
6 problems that she saw at the District?

7 A. Yes, I do remember that.

8 Q. Do you know when that happened?

9 A. No, I don't.

10 Q. Do you recall attending a workshop on October
11 30, 2006?

12 A. If I took minutes, I was there. Right.

13 Q. Okay.

14 MR. HENNESSY: I'll go ahead and have this
15 marked Exhibit 4.

16 (Plaintiffs' Exhibit Number 4 was marked for
17 Identification.)

18 BY MR. HENNESSY:

19 Q. I'm showing you what's been marked Exhibit 4 to
20 the deposition, Workshop Meeting Minutes dated October
21 30, 2006. I'd like you to look it over and tell me if
22 you recognize Exhibit Number 4?

23 A. Yes.

24 Q. What do you recognize Exhibit 4 to be?

25 A. I wrote the minutes.

1 Q. Okay. Is that your signature on the second
2 page of Exhibit 4?

3 A. Yes, it is.

4 Q. Do you recall preparing these minutes?

5 A. Yes, I do.

6 Q. And do you believe that these minutes
7 accurately reflect what occurred at the workshop?

8 A. I'm assuming that they do.

9 Q. Do you recall attending that particular
10 workshop?

11 A. I don't recall attending that particular
12 workshop, but I must have been there because I did the
13 minutes.

14 Q. What is the difference between a workshop
15 meeting and a regular meeting of the Board of Trustees,
16 if you understand?

17 A. Well, the workshop meetings you discuss things
18 that are going to be coming up for a vote.

19 Q. So you don't vote on things at workshops?

20 A. Not normally, no.

21 Q. Is there, in fact, a prohibition, to your
22 knowledge, on voting on matters at a workshop?

23 A. As far as I know, there -- you know, we
24 don't -- we've never voted at a workshop.

25 Q. Okay. Now, do you know if this letter, Exhibit

1 3, that I previously showed you was presented or read at
2 the workshop on October 30?

3 MR. CARROLL: Form.

4 A. We never read letters at workshops. They were
5 always read at the meetings, regular meetings.

6 Q. Do you recall if Janet Jones read the content
7 of that letter at the workshop on October 30, 2006?

8 A. Well, if she did, it was not put in the
9 minutes.

10 Q. Okay.

11 A. Well, here it says she read a letter and asked
12 for a pole to be taken of the Board, so that must be the
13 letter.

14 Q. Okay. But do you have any certainty or memory
15 of that today?

16 A. No.

17 Q. Okay. As part of your responsibilities as
18 Secretary, did you have to advertise the meetings of the
19 District Board?

20 A. The Board Meetings were advertised. It had
21 been policy that someone else had put them on the board.

22 Q. Okay.

23 A. And I don't know who put them on the board, but
24 I was told I didn't have to worry about it, they were
25 already put up.

1 Q. Okay. So the meetings -- future meetings of
2 the Board of Trustees would be advertised?
3 A. Yes.
4 Q. And where would they be advertised?
5 A. They would be advertised on the bulletin
6 boards.
7 Q. The park bulletin boards?
8 A. Yes.
9 Q. Would they be advertised in the newspaper?
10 A. I believe they were, yes.
11 Q. Did you -- were you responsible for making sure
12 that that occurred?
13 A. No, I believe Pam Cole did that.
14 Q. That was her responsibility, to your knowledge,
15 as Treasurer?
16 A. I assume.
17 Q. Okay.
18 A. I was never told that it was my responsibility.
19 Q. Okay. Do you know who took responsibility for
20 posting meeting notices at the District?
21 A. I'm assuming T.J. Miller did.
22 Q. But you don't know for certain?
23 A. No, I don't.
24 Q. You just know that you did not post --
25 A. I did not post them.

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A. Fox Distributors in Sarasota.

Q. Okay. Was there a particular individual you dealt with at Fox?

A. We dealt with Mr. Fox himself.

Q. Do you know what his first name is?

A. No, I don't. Not offhand.

Q. And your club kept records of that transaction?

A. Yes, we did.

Q. Did you ever give those records to the District?

A. No, we didn't.

Q. Are you familiar with another lawsuit that the District was involved in concerning a fence on property owned by Mr. McNeil?

A. I know there was a lawsuit. I am not familiar with the case. I had nothing to do with it.

Q. Well, you were on the Board when the case was settled?

A. Yes, I was.

Q. Do you recall having to vote on the settlement?

A. I'm sure we did vote on it.

Q. Do you recall how you voted on it?

A. I'm sure that I probably voted to accept the settlement.

Q. Do you recall Mr. Vander Molen, another

1 Trustee, giving you his recommendation that the Board
2 should accept the Settlement Agreement?

3 A. I don't recall that, no.

4 Q. Are you saying that that didn't happen?

5 A. I'm not saying it didn't happen. I'm saying I
6 don't remember.

7 Q. Okay. Let me go ahead and show you what I'll
8 have marked Exhibit 10 to the deposition.

9 (Plaintiffs' Exhibit Number 10 was marked for
10 Identification.)

11 BY MR. HENNESSY:

12 Q. I'm showing you what's been marked Exhibit 10
13 to the deposition, a memo to the Trailer Estates
14 Trustees from John Vander Molen, dated June 4, 2007,
15 subject, the McNeil fence case. I'd like you to look at
16 that and tell me if you recognize Exhibit 10?

17 A. I'm sure I read it before, but I don't recall.

18 Q. Do you see at the bottom there in bold the
19 statement, "Moving the fence," and underneath it it
20 says, "Therefore, I strongly recommend that the Board of
21 Trustees vote to accept this agreement"?

22 A. I see it.

23 Q. Do you recall now Mr. Vander Molen making that
24 recommendation to you?

25 A. I still don't recall him making the

1 recommendation.

2 Q. Is Mr. Vander Molen an individual on the Board
3 that you respect?

4 A. Yes, he is.

5 Q. Do you take his opinions -- do you give his
6 opinions weight?

7 A. Yes, I do.

8 Q. And if Mr. Vander Molen made a strong
9 recommendation to you that you accept an agreement,
10 would you give that great consideration?

11 A. I would think about it.

12 Q. Do you think it would influence you in a
13 decision in any way?

14 A. If I felt that it was a good thing for the
15 park, yes, but if I didn't, then I would vote my own
16 conscience.

17 Q. Do you recall there being a question that came
18 up concerning Mr. Vander Molen's delay in providing the
19 Board of Trustees information on this Settlement
20 Agreement?

21 A. No, I don't.

22 MR. SCOTT: Object to the form.

23 Q. You don't recall a discussion on that occurring
24 outside of a Board Meeting?

25 A. No.

1 Q. You don't -- do you recall any Trustee making a
2 request prior to a Board Meeting that Mr. Vander Molen
3 produce copies of the Settlement Agreement for the
4 Trustees to review?

5 A. No.

6 Q. Do you recall specifically making a request of
7 the Board attorney, Mr. Barnebey, that he get Mr. Vander
8 Molen to produce copies of the Settlement Agreement for
9 the Trustees?

10 A. No, I don't.

11 MR. HENNESSY: I'll go ahead and have the next
12 exhibit marked as Exhibit 11.

13 (Plaintiffs' Exhibit Number 11 was marked for
14 Identification.)

15 BY MR. HENNESSY:

16 Q. I've shown you what's been marked Exhibit 11 to
17 your deposition, a memo to Trailer Estates Trustees from
18 John Vander Molen, dated June 4, 2007, regarding release
19 of copies of the mediated Settlement Agreement of the
20 case regarding the McNeils of 6626 New Jersey. I'd like
21 you to look at Exhibit 11 and tell me if you recognize
22 it?

23 A. I'm sure I got a copy, but I don't remember it.

24 Q. At the bottom of Exhibit 11, Mr. Vander Molen
25 makes the statement, "The office manager and I

1 immediately contacted all of the Trustees available and
2 they did pick up or had delivered to them a copy of the
3 settlement before 3 p.m."

4 Do you recall in June of 2007 having a
5 conversation with Mr. Vander Molen about this Settlement
6 Agreement?

7 MR. SCOTT: Object to the form.

8 MR. ROSS: Join.

9 A. I may not even have been in Florida at that
10 time, in June of 2007.

11 Q. And why would that be?

12 A. Because we were on vacation.

13 Q. Okay. Well, sitting here today, do you
14 remember having that conversation with Mr. Vander Molen
15 on the phone or in person?

16 A. No, I don't.

17 MR. SCOTT: Object to the form.

18 Q. So if Mr. Vander Molen indicated that he had
19 contacted all of the Trustees and they either picked up
20 or had delivered a copy of the Settlement Agreement
21 before 3 p.m., do you believe that that's an accurate
22 statement or not an accurate statement?

23 MR. SCOTT: Object to the form.

24 MR. R. TURFFS: Join.

25 MR. ROSS: Join.

1 MR. CARROLL: Join.

2 MR. DYE: Join.

3 A. Like I say, we may have been out of town, but
4 if he said he sent a copy, he probably sent a copy, but
5 I don't remember it.

6 Q. You don't remember receiving a copy of the
7 agreement?

8 A. No, I do not.

9 Q. Do you ever recall reading the settlement for
10 the McNeil case?

11 A. Yes, I read the settlement.

12 Q. If you voted on it, would you have read the
13 Settlement Agreement before you voted?

14 A. I'm sure that I would have, or I would not have
15 voted.

16 Q. If you were in the park and present at the
17 meeting, would you have to agree with Mr. Vander Molen's
18 statement that he contacted you prior to the meeting
19 about the Settlement Agreement?

20 MR. SCOTT: Object to the form.

21 MR. ROSS: Join.

22 MR. CARROLL: Join.

23 MR. DYE: Join.

24 A. I would agree that he contacted me. Like I
25 say, some of the times we're gone in the month of June,

1 sometimes we're gone in the month of July, and I can't
2 honestly say because I'm not sure. I don't remember.

3 Q. All right. In the earlier paragraph it states,
4 "At approximately 2:10 p.m., Friday, June 1, 2007, I
5 received a telephone call at home from Mr. Barnebey.
6 Mr. Barnebey advised me to provide copies of the
7 Settlement Agreement, which had been provided to Mr.
8 Barnebey earlier in the week, to the other Trustees so
9 they may be prepared to vote on the settlement in
10 Monday's meeting. When I pressed for a reason as to
11 what prompted this late action, he responded that he
12 felt the settlement was a public record and, therefore,
13 should be released. He acknowledged he had received a
14 phone call from a Trustee concerning the release."

15 Do you see that?

16 A. Yes, I do.

17 Q. Were you the Trustee that contacted Mr.
18 Barnebey?

19 A. No, I was not.

20 Q. Do you recall speaking to any Trustees about
21 who made that phone call?

22 A. No, I do not.

23 Q. Okay.

24 A. And, like I said, if I was at that meeting, it
25 would be in the minutes.

1 Q. Okay.

2 A. That's the only way I would know.

3 Q. Do you recall receiving correspondence from the
4 Manatee County Attorney's Office in response to an
5 inquiry from my client, Mary Lou Smith?

6 A. No, I don't.

7 MR. HENNESSY: I'm going to ask her questions
8 with regard to these minutes. I'm going to need
9 them back because, again, I'm not in possession of
10 multiple copies of that.

11 BY MR. HENNESSY:

12 Q. Do you know who Wayne Hamblen is?

13 A. Yes, I do.

14 Q. Who is Mr. Hamblen?

15 A. Mr. Hamblen was also a Trustee and he was a
16 very good friend.

17 Q. A good friend of yours?

18 A. Yes, he was.

19 Q. Were you on the Board at the same time Mr.
20 Hamblen was on the Board?

21 A. Yes, I was.

22 Q. Do you recall Mr. Hamblen ever bringing to the
23 Board a request from Manatee County to sign an easement
24 for a cross property owned by the District?

25 A. Vaguely, but I don't -- I can't remember where

1 it was or what it was about.

2 Q. Do you have any recollection, details you could
3 share with us?

4 A. No, I don't.

5 Q. Do you recall when you spoke to Mr. Hamblen
6 about that?

7 A. No, I don't.

8 Q. Do you recall it being outside of a Board
9 Meeting?

10 A. No, anything that he would have brought up
11 about something like that would have been at a Board
12 Meeting, I'm sure.

13 Q. All right. So, to your knowledge, if the
14 District was going to execute -- or a Trustee was going
15 to execute an easement on behalf of the District, that's
16 a matter that would have had to come before the Board?

17 A. I would assume so, yes.

18 Q. And why would you assume that?

19 A. Because Mr. Hamblen wasn't in the habit of
20 going around doing things unless it was through the
21 Board.

22 Q. Was Mr. Hamblen empowered to sign legal
23 documents on behalf of the District?

24 A. I believe Mr. Hamblen was 1st or 2nd Vice, but
25 I'm not sure. I can't remember.

1 Q. But his position, to your knowledge, didn't
2 have independent authority over all the property within
3 the District?

4 A. I would -- I don't know.

5 Q. I'm going to show you --

6 MR. HENNESSY: Well, first, are we up to
7 Exhibit 12?

8 THE COURT REPORTER: Yes.

9 MR. HENNESSY: I'll have that marked Exhibit
10 12.

11 (Plaintiffs' Exhibit Number 12 was marked for
12 Identification.)

13 BY MR. HENNESSY:

14 Q. Ms. Durham, I've shown you what's been marked
15 Exhibit 12 to the deposition. It indicates it is
16 Trailer Estates Park and Recreation District Board of
17 Trustees Regular Meeting, October 16, 2006. Is that
18 your signature on the last page of these minutes?

19 A. Yes, it is.

20 Q. Is that indicative of the fact that you
21 prepared these minutes?

22 A. Yes.

23 Q. And is signing the minutes something you do
24 when the minutes are all finalized and approved?

25 A. Yes, it is.

1 Q. Under Correspondence on the first page, there's
2 a reference to the fact that, "Peg Durham," which is
3 you, "read a letter from Robert Michael Eschenfelder and
4 Ted N. Williams, attorneys from Manatee County
5 Commission, stating the Trustees are within their powers
6 according to the Special Act Charter, Chapter Laws
7 2002-361, Laws of Florida." Do you see that?

8 A. Yes, I do.

9 Q. Do you recall reading that letter?

10 A. If it states here that I read it, then I read
11 it.

12 Q. Well, today, sitting here today, do you recall
13 reading that letter?

14 A. I don't recall back in 2006 reading it, no.

15 Q. Do you believe that that statement is an
16 accurate statement of what the letter said?

17 A. Without seeing the letter, I couldn't tell you.

18 Q. So you don't recall here today?

19 A. No, I don't.

20 Q. Do you recall any dispute ever occurring
21 concerning the accuracy of this statement that you've
22 made in the minutes?

23 A. No.

24 Q. It goes on to say that, "They also suggested
25 our constituent contact an attorney of her choosing who

1 may advise her on the variety of administrative or legal
2 options available to her to address her concerns with
3 the District's Governance." Do you see that?

4 A. Yes, I do.

5 Q. Do you believe that that's an accurate
6 statement?

7 A. If I wrote it, I'm assuming that it came off
8 the -- I'm assuming that it's true.

9 Q. That it's an accurate reflection of what
10 occurred at the meeting?

11 A. I'm assuming so.

12 Q. Do you know who the constituent was?

13 A. No, I do not.

14 MR. HENNESSY: Let's have this marked the next
15 exhibit, which would be 13?

16 THE COURT REPORTER: Yes.

17 (Plaintiffs' Exhibit Number 13 was marked for
18 Identification.)

19 BY MR. HENNESSY:

20 Q. I'm showing you what's been marked Exhibit 13
21 to your deposition. And it's, again, Minutes of the
22 Board of Trustees Regular Meeting, dated October 16,
23 2006, and it reflects by signature that it was
24 prepared -- or not by signature, by typing, Peg Durham,
25 Secretary.

1 A. I didn't sign it.

2 Q. Okay. And do you know why you wouldn't have
3 signed it?

4 A. No, I do not.

5 Q. Under Correspondence, do you see the statement
6 that begins, "Peg Durham read a letter from Robert
7 Michael Eschenfelder and Ted N. Williams, attorneys from
8 Manatee County Commission, stating that the Trustees are
9 within their powers according to the Special Act"?

10 A. Yes, I see it.

11 Q. Would this -- these minutes -- well, let me ask
12 you. These minutes appear to be the same -- are minutes
13 for the same meeting; would you agree with that?

14 A. I would agree with that.

15 Q. Do you know why you would have one set of
16 minutes that were signed and one set that were not?

17 A. No, I don't.

18 Q. On Exhibit 12 you have a spot in the minutes
19 that refers to Residents' Comments and Questions?

20 A. Yes.

21 Q. Okay. And under Residents' Comments and
22 Questions, there's a statement, "Mary Lou Smith, 6907
23 Tarpon Lane, read a letter about what she feels she
24 needs from the Trustees on charging fees and abiding by
25 the laws. She gave to each Trustee the Florida Special

1 **District Handbook."**

2 A. Yes.

3 Q. Do you see that?

4 A. Yes.

5 Q. And on Exhibit 13, under Residents' Comments
6 and Questions, it says, "Mary Lou Smith, 6907 Tarpon
7 Lane, read a letter about what she feels she needs from
8 the Trustees on charging fees and abiding by the laws.
9 She passed out a handbook on Special Districts."

10 Would you agree that Exhibit 12 and 13 reflect
11 a difference in those minutes?

12 A. Yes, I do.

13 Q. Do you recall why there is a difference
14 reflected in these minutes?

15 A. I have no idea.

16 Q. Do you know which minutes reflect the final
17 minutes --

18 A. I would assume --

19 Q. -- of the District?

20 A. -- the one that is signed.

21 Q. Okay.

22 A. And why the difference, I don't know.

23 Q. Do you recall if this change was made to the
24 minutes pursuant to a vote of the Board of Trustees or
25 not?

1 A. No, I don't.

2 Q. If the minutes were changed -- yes, ma'am, do
3 you have something you wanted to add?

4 A. I'm wondering if maybe Mary Lou Smith came to
5 me and said instead of "she passed out a handbook on
6 Special Districts," she gave to each Trustee the Florida
7 Special District Handbook. This may have been written
8 up, and then she came back and said, this is not right,
9 and put it in as that way. That's the only thing I can
10 think of.

11 Q. Do you have any recollection of that today?

12 A. Vaguely.

13 Q. Okay. Would that change then be something that
14 the District Board would have to vote on?

15 A. I don't think that they would have to vote on
16 it. I mean, if she gave each one a handbook, why would
17 they have to vote on it.

18 Q. No, ma'am, I mean, the minutes.

19 A. Oh.

20 Q. For example, if Exhibit 13 had been submitted
21 and approved by the Board, and then Exhibit 12 --

22 A. Had Exhibit --

23 Q. -- was created and made -- and the change was
24 made --

25 A. Had Exhibit 13 been approved by the Board, or

1 was just Exhibit 12 approved by the Board?

2 Q. I'm asking you to assume.

3 A. I'm saying that if this was not signed, it had
4 not been approved by the Board.

5 Q. Okay. All right. So your assumption is that
6 only one of these minutes was ever approved by the
7 Board?

8 A. That would be my assumption.

9 Q. I want you to assume now that Exhibit 13 were
10 the minutes that were approved by the Board, the ones
11 that were unsigned.

12 A. Okay.

13 Q. And then Ms. Smith did, in fact, raise comments
14 about portions of these minutes that should be changed.
15 And in response to that, only one change was made and
16 that was the change that you see -- that we pointed out
17 on the second page of the minutes.

18 If you -- if such a change had been made, in
19 your opinion, would that change have had to have been
20 approved by the Board of Trustees?

21 MR. ROSS: Form.

22 MR. CARROLL: Join.

23 MR. SCOTT: Join.

24 MR. DYE: Join.

25 A. It probably should have been.

1 Q. Would you agree that public records of the
2 Board of Trustees cannot be changed outside of a Board
3 Meeting without Board approval?

4 A. It should be with Board approval.

5 Q. To your knowledge, would the changing of public
6 documents be a -- without authorization by the Board be
7 a violation of the Public Records Act?

8 MR. ROSS: Form.

9 MR. SCOTT: Form.

10 MR. R. TURFFS: Form.

11 MR. CARROLL: Form.

12 MR. DYE: Form.

13 A. No.

14 Q. Why not?

15 A. Let me put it this way. If I had typed it up,
16 and it wasn't signed, and it hadn't been approved, and
17 she came to me and said, "I want to change this," I
18 changed it, and then it was presented to the Board, and
19 then it was signed -- or signed and then presented to
20 the Board.

21 Q. Then that wouldn't be a violation?

22 A. It wouldn't be a violation.

23 Q. But would it be a violation of the Public
24 Records Law if Exhibit 13 had been approved by the
25 Board, she came up to you, asked for changes to be made,

1 and you just made changes to the document without Board
2 approval?

3 MR. ROSS: Form.

4 MR. CARROLL: Form.

5 MR. SCOTT: Form.

6 MR. DYE: Form.

7 A. I can't say that I did that.

8 Q. I know. I'm not saying that you did. I'm just
9 asking you to assume for the purposes of this deposition
10 that that's what occurred, would that be a violation of
11 the Public Records Law?

12 MR. ROSS: Form.

13 MR. SCOTT: Form.

14 MR. DYE: Form.

15 MR. CARROLL: Form, calls for a legal
16 conclusion.

17 A. I don't feel that it would be.

18 Q. And why not?

19 A. What harm is it to read she passed out a
20 handbook on Special Districts or she gave each Trustee a
21 Special District Handbook.

22 Q. Okay. Well, let's say that it was -- let's
23 hypothetically talk about a different circumstance,
24 something that you felt was important.

25 Say, how the Board of Trustees voted on

1 something, and you had reflected that the vote was in
2 favor and you, after the Board approved the minutes,
3 went around and changed the minutes to reflect that the
4 vote had been against something that had been proposed,
5 and you had made that change outside of the public
6 meeting without Board approval. Do you feel that that
7 would be a violation of the Public Records Law?

8 A. That would, but I --

9 MR. ROSS: Form.

10 MR. SCOTT: Form.

11 MR. CARROLL: Form.

12 MR. DYE: Form.

13 A. -- I don't feel that this is a violation.

14 Q. Okay. Now, in both sets of minutes, Exhibit 12
15 and 13, you make the statement that, "The Trustees are
16 within their powers according to the Special Act
17 Charter." Do you agree with that?

18 A. I apparently agreed or I wouldn't have written
19 that down.

20 Q. If the letter that you received, in fact, did
21 not say that the Board was within its powers, yet that's
22 what you wrote knowing that that was an inaccurate
23 statement, do you believe that that would be a violation
24 of the Public Records Law?

25 MR. ROSS: I object to these --

1 MR. CARROLL: Form.

2 MR. SCOTT: Form.

3 MR. DYE: Form.

4 MR. ROSS: -- lines of questions, just to the
5 fact that you keep asking her questions about this
6 letter, but you haven't shown her the letter.

7 THE DEPONENT: Yeah, I don't even know what the
8 letter basically is about.

9 BY MR. HENNESSY:

10 Q. Yes. Well, the question I'm asking you is to
11 assume that the letter, in fact, does not say that the
12 Board of Trustees are within their powers according to
13 the Special Act Charter. If, in fact, the letter did
14 not say that and you knew that it did not say that, yet
15 you placed it in the minutes, do you believe --

16 A. The only thing --

17 Q. -- do you believe that that would be a
18 violation of the Public Records Law?

19 MR. CARROLL: Form.

20 MR. ROSS: Form.

21 MR. DYE: Form.

22 MR. SCOTT: Form.

23 A. The only thing that I put down on here is what
24 I'm presented and what I read at a meeting. So whatever
25 is written down here was what I was presented at the

1 meeting --

2 Q. All right. So what you're saying --

3 A. -- in the letter.

4 Q. -- is that you believe that this is an accurate
5 quote of a statement in a letter you received?

6 A. I do, yes, or I would not have put it down on
7 the thing.

8 MR. ROSS: Form.

9 Q. Okay. And say one of the Trustees then read
10 the minutes --

11 MR. CARROLL: Excuse me. Mr. Hennessy, is this
12 witness designated as an expert for which opinions
13 are going to be elicited at trial?

14 MR. HENNESSY: No, Hunter, she's not. She's
15 just being questioned on her responsibilities and
16 role and tasks that she took as Secretary of the
17 District.

18 BY MR. HENNESSY:

19 Q. Now, if you had written these minutes and a
20 Trustee had brought to your attention that that letter
21 from Mr. Eschenfelder and Mr. Williams did, in fact, not
22 say that the District was within its powers according to
23 the Special Act, would you correct those minutes?

24 A. Yes, I would.

25 MR. ROSS: Form.

1 MR. R. TURFFS: Form.

2 MR. DYE: Form.

3 MR. CARROLL: Form.

4 MR. SCOTT: Object to the form.

5 Q. And how would you correct those minutes?

6 A. I would put in what was supposed to be put in.
7 Like I said, I only put in what I'm presented and what I
8 read at the meetings.

9 Q. Okay. If a Trustee had brought that to your
10 attention, that the letter didn't say what you had
11 written, but it was brought to your attention after the
12 minutes had already been approved by a vote of the
13 Trustees, how would you go about making the change?

14 MR. ROSS: Form.

15 MR. SCOTT: Form.

16 MR. CARROLL: Join.

17 MR. DYE: Join.

18 A. I would bring it into the next meeting and get
19 it changed.

20 Q. By a vote of the Trustees?

21 A. Yes.

22 Q. While you were a member of the Board, did you
23 socialize with any of the other Board members?

24 A. Yes, I did.

25 Q. Which ones?

1 whether or not it should be done.

2 **Q. Do you recall that issue coming to the Board?**

3 A. Yes, it came to the Board, but I can't remember
4 what happened to it.

5 **Q. Do you recall the Board taking -- ever taking a**
6 **position that they felt that the -- that the Board felt**
7 **that information that the District had concerning an**
8 **individual's date of birth and other personal**
9 **information was confidential?**

10 A. A lot of people went to the park office and
11 said they wanted their information taken off of it.

12 **Q. Do you recall the Board telling people that**
13 **that information wouldn't be given out because it was**
14 **confidential?**

15 A. I don't remember that, no.

16 **Q. What is your -- when you were on the Board,**
17 **what was your responsibility concerning The Tribune?**

18 A. Our park paper?

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

20 A. I didn't have any issues with that. I had
21 nothing to do with it other than give T.J. the events
22 coming up on the calendar.

23 **Q. You didn't exercise any role concerning**
24 **determining what information would appear in The Tribune**
25 **and what --**

1 A. No, I did not.

2 Q. -- and what information would not appear in The
3 Tribune?

4 A. No, I did not.

5 Q. Do you recall speaking to Gail Opper in March
6 of 2008 concerning your role with regard to The Tribune?

7 A. No.

8 Q. Are you aware that Ms. Opper provided
9 information to residents within Trailer Estates stating
10 that Peg Durham, elected by the people, is in charge of
11 The Tribune?

12 A. I never did anything for The Tribune, like I
13 said, except put out on the calendar on the back what
14 functions are going to be going on.

15 Q. Do you have any idea why Ms. Opper would
16 believe that you were responsible for The Tribune?

17 MR. ROSS: Form.

18 A. I have no idea.

19 Q. Did you ever submit any information for The
20 Tribune?

21 A. Not to my knowledge.

22 Q. I'm sorry, I thought you were saying you were
23 giving information to T.J. regularly about matters to go
24 in The Tribune?

25 A. Just the calendar on the back. I would make up

1 a form the 1st of every month what was taking place,
2 like Cooks Night Out, Show Time, dances, if there was a
3 party in a certain room. What was going on, that's the
4 only thing that I put in The Tribune.

5 Q. Did you ever have any information that you
6 submitted to T.J. be rejected for publication?

7 A. No, I did not.

8 Q. Are you aware of anybody who submitted
9 information for publication in The Tribune who had their
10 information rejected for publication?

11 A. No. Now, I understand that Ms. Denson one time
12 said that she didn't get something put in, but I
13 couldn't tell you what it was.

14 Q. And you don't recall, as a Board member, voting
15 on whether or not information would be placed in The
16 Tribune?

17 A. No, I don't.

18 MR. HENNESSY: I thought I was doing really
19 well on time, but my watch had stopped.

20 MR. R. TURFFS: Feels like that.

21 MR. CARROLL: So did mine.

22 MR. HENNESSY: You missed your calling, Mr.
23 Turffs.

24 BY MR. HENNESSY:

25 Q. Earlier I had asked you a question concerning

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Architectural Review Committee?

A. My husband took care of it, I couldn't tell you.

Q. Okay.

THE DEPONENT: Can we take a break for just a minute, please?

MR. ROSS: Yeah.

MR. HENNESSY: Absolutely.

MR. ROSS: Absolutely.

MR. HENNESSY: I think we only have a little bit more from me anyway.

(A recess was taken from 11:52 a.m. to 11:55 a.m.)

MR. HENNESSY: Okay. Back on the record.

BY MR. HENNESSY:

Q. When you were Secretary, were you also responsible for the bulletin board?

A. Anything that went up on the bulletin board was taken care of by -- I believe, Mark Yawberg puts it on the bulletin board. T.J. gives it to him and he puts it up.

Q. So you didn't do it yourself?

A. I would not, no.

Q. You weren't involved in any way?

A. No, not in any way.

1 Q. Did you have any involvement with regard to the
2 videotaping of the Board Meetings?

3 A. No, I did not.

4 Q. Were you familiar with an incident where the
5 Video Computer Club was told that they did not have to
6 videotape the meetings anymore?

7 A. I remember somebody saying they were told they
8 didn't have to, but I was certainly hoping that they
9 would.

10 Q. And why is that?

11 A. Because if anything was missed on the tape, if
12 anything happened to the small tape recorder, it was on
13 video and they had a record of it.

14 Q. So you never voted against allowing videotaping
15 of the meetings?

16 A. No.

17 Q. Are you aware of anyone on the Board directing
18 that the meetings should not be videotaped?

19 A. No.

20 Q. Are you aware -- are you familiar with Martha
21 Brauer?

22 A. Yes, I am.

23 Q. Are you aware that Martha Brauer instructed
24 Bill Mumford not to videotape meetings?

25 A. I was not aware of that, no.

1 Q. Do you have any involvement with Channel 95?

2 A. No, I do not.

3 Q. Do you know who does?

4 A. I'm --

5 Q. Well, let me -- that's a broad question. Do
6 you know who is responsible for the content that goes on
7 Channel 95?

8 A. No, I do not.

9 Q. Have you ever been involved in making decisions
10 concerning content on Channel 95?

11 A. I've made out papers before to put on 95.

12 Q. And who did you submit those papers to?

13 A. I submitted them -- you make it out and give it
14 back to T.J. and the Video Computer Club picks it up on
15 Tuesday mornings.

16 Q. And you never specifically spoke to anybody on
17 the Board concerning whether things should be placed on
18 the video computer --

19 A. No.

20 Q. -- on Channel 95?

21 A. No.

22 Q. Okay. You said you belong to the Covenant
23 Church?

24 A. Yes, I do.

25 Q. Do they have offices in Trailer Estates?

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today?

A. I remember, yes.

Q. Prior to receiving this notice, was it your practice to turn in all -- any documents that you received into the office?

A. Yes.

Q. And, to your knowledge, did the other Trustees do the same thing?

A. As far as I know.

Q. Also, do you remember earlier this morning, do you recall discussing a easement with Manatee County that I guess was signed by Wayne Hamblen?

A. I remember.

Q. Do you remember discussing that this morning?

A. Yes. Yes.

Q. Do you recall whether or not Wayne Hamblen had any authority to enter into that easement agreement?

A. That I don't know.

Q. Now, going back to Exhibit 4, on the second page where it reads, "Janet Jones read a letter she had written and asked for a pole to be taken of the Board," do you -- can you recall specifically what letter she's referring to or the minutes are referring to?

A. Not really.

Q. Okay. And then my last question is relating to

WORKSHOP MONDAY, OCTOBER 30, 2006

TO THE RESIDENTS OF TRAILER ESTATES

Reg

OUR PARK IS BASED ON VOLUNTEERISM AS CONCERNS THE NINE TRUSTEES GOVERNING OUR COMMUNITY. THIS YEAR ONLY FOUR RESIDENTS HAVE VOLUNTEERED FOR FIVE POSITIONS.

TRAILER ESTATES HAS A COMPLAINANT RESIDENT WHO SAYS THEY PURCHASED A HOME IN OUR PARK EIGHT YEARS AGO. THIS RESIDENT SINCE MARCH OF 2006 HAS BOMBARDED THE TRUSTEES WITH COMPLAINTS, ACCUSATIONS AND INNUENDOS CONCERNING OUR GOVERNANCE OF THIS COMMUNITY. IN AUGUST 2006 THIS RESIDENT REQUESTED A "PERFORMANCE AUDIT" OF TRAILER ESTATES TO THE HONORABLE RON GETMAN, MANATEE BOARD OF COUNTY COMMISSIONERS, AND TO THE FLORIDA STATE AUDITOR GENERAL OFFICE IN TALLAHASSEE. THIS RESIDENT STATED "YOU CONTINUE TO BE ENJOYING FINANCIAL GAIN AS A RESULT OF THE USE OF YOUR POSITION OF CHAIRMAN OF THE BOARD OF TRUSTEES TO INFLUENCE OTHERS". IN ANOTHER QUOTE THE COMPLAINANT STATED "I HAVE TO WONDER IF FRAUD AND TAX EVASION ARE ADDITIONAL ISSUES TO BE EXPLORED". THE MANATEE COUNTY ATTORNEY'S SUGGESTED THAT THE COMPLAINING RESIDENT "CONTACT AN ATTORNEY OF HER CHOOSING WHO MAY ADVISE HER ON THE VARIETY OF ADMINISTRATIVE OR LEGAL OPTIONS AVAILABLE TO HER TO ADDRESS HER CONCERNS WITH THE DISTRICT'S GOVERNANCE".

IN ORDER FOR OUR COMMUNITY TO CONTINUE TO PROGRESS AND WORK TOGETHER WITH OUR COMBINED TALENTS AND POSITIVE ATTITUDES I WOULD LIKE TO POLL THE TRUSTEES ON THEIR OPINIONS TO SEEK LEGAL COUNSEL ON HIRING KIRK-PINKERTON LAW FIRM WHO SPECIALIZE IN LEGISLATIVE LAW TO SOLVE THIS PROBLEM.

EXHIBIT

Durham
#3
FC 12-12-105

Workshop Meeting
October 30, 2006
9:30 A.M.

Purpose of this workshop is to ask Mr. Mark Barnebey his qualifications as a land use attorney and specialize in Special District Law.

He has not been hired yet, so questions only pertaining to his qualifications.

Mr. Barnebey and Scott Rudacille attended the meeting. Mr. Barnebey said that we are like a small town, and he has a lot of expertise in the laws of this type of community.

The law firm's fees are \$175.00 per hour with litigation at \$185.00 per hour.

Mr. Barnebey said it is legal to vote after this meeting as to whether to hire there firm or not.

When asked if he should attend our meetings he stated yes. We need to know what if anything needs to be changed.

If we call on the firm, we will be charged.

Art Gaudet – 1804 Florida Blvd. – If we have an attorney are we going to make rules for time limit.

Lawyer – yes we can set time limits.

Flo Mallory – 6919 West Bayou – asked does membership in the Insurance company entitle the District for legal assistance; does membership in the “small districts” group provide legal help; does the Special District handbook have provision for legal assistance?

What is the problem that has brought the consideration of seeking legal assistance? Has the “problem” been clarified and understood by each trustee?

Lawyer – they will provide general service and help on lawsuits. Day to day operations would not be of much help.

Sharon Denson – 1613 Illinois – what does “shall” mean in the Charter?

Lawyer – Shall means mandatory

Bruce Smith – 2311 New York – stated he doesn't believe anyone wants to sue anyone. We all want to get on the same page. He feels it's wise for the attorney to sit in on the meetings and he feels we need training.

EXHIBIT

Durham
#4

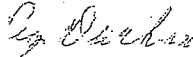
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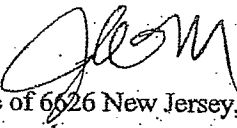
Bob Poor — 1818 Minnesota — No longer being a homeowner he feels he shouldn't talk but there is confusion about the Florida League of City. We discovered we were operating without liability insurance and chose to cover ourselves and got help from them. Discovered it was not in our insurance package at the time and sought their help.

Janet Jones read a letter she had written and asked for poll to be taken of the Board. Poll 9-0 for Hiring Kirk-Pinkerton. (Letter attached).

Wayne Hamblen made a motion to hire Kirk-Pinkerton as our legal council. Seconded by Margo Cushman and motion passed 9-0.

Peg Durham - Secretary



TO: Trailer Estates Trustees
FROM: John C. Vander Molen 
SUBJECT: McNeil Fence Case of 6026 New Jersey, Mediated Settlement Agreement
DATE: June 4, 2007

Attached find a copy of the results of the confidential and privileged court ordered mediation session conducted by Mr. Edwin L. Ford, P.A. an Attorney at Law and a Certified Mediator on May 24, 2007. I was in attendance along with Mr. Gaskill our attorney, and Mr. and Mrs. McNeil and their attorney.

In my own terms this is what I understand the agreement contains.

1. This agreement is subject to approval by Board of Trustee Agreement which is anticipated by June 4, 2007 or as soon thereafter as possible and the parties will stipulate to the dismissal of this action, with prejudice (usually considered an adjudication upon the merits and will act as a bar to future action).
2. Mr. McNeil must move the fence in question on the south side of his property outside the four-foot setback no later than September 30, 2007.
3. Each party will bear its own costs and fees.
4. This is a court enforceable agreement.
5. If Mr. McNeil fails to move the fence as stated he would be subject to payments of all of our fees and costs to enforce the above action plus pay to us the sum of \$10,000 in attorney fees and costs that we have already incurred.
6. The agreement becomes a valid and binding agreement under the laws of the State of Florida.
7. If this agreement is not accepted by the Board the agreement will be null and void *ab initio*. (We go back to square one and none of this agreement can be or will be used in the future action).
8. We would then anticipate going to trial on or about September 19, 2007.
9. Our attorney estimated that our legal fees could approach \$25,000 if we go to trial.

Based on the agreement, I was assured that this settlement reconfirms the fact that the Board had the power to enforce deed restrictions and must continue to enforce the restrictions as written without exception. It was said that failure to do so could result in the Board being accused of "selective enforcement" and perhaps lose the ability to enforce restrictions. It was noted that Homeowner Associations and Governing Boards rarely if ever succeed in collection of attorney fees, as it is "just the cost of doing business". However, as written in this agreement it would be "court ordered" that we collect fees and costs if Mr. McNeil fails to move the fence as stipulated. I believe this agreement will achieve our major goal of:

MOVING THE FENCE.

Therefore, I strongly recommend that the Board of Trustees vote to accept this agreement.

Enclosure: McNeil Mediated Settlement Agreement

EXHIBIT

Durham
#10
FC 12-12-109

McNulty DT Docs -000157

TRAILER ESTATES PARK AND RECREATION DISTRICT
BOARD OF TRUSTEES
REGULAR MEETING

October 16, 2006

9:30 a.m.

Janet Jones gave the invocation followed by the Pledge of Allegiance.

1st Vice Chairman Janet Jones called the meeting to order.

Trustees present were: Wayne Hamblen, Joe Bigley, Pam Cole, Janet Jones, Peg Durham, Margo Cushman and Mike Neal. Mary Lou McNulty and Tom Featheringill were absent.

Margo Cushman made a motion to approve the minutes of the October 2, 2006 board meeting. Seconded by Wayne Hamblen and Passed 7-0.

CORRESPONDENCE:

Peg Durham read a notice of the public meeting October 25, 2006 at 10:00 a.m. about the Phase 4 water project the east side of Canada - Ohio to Iowa and south side of Florida Blvd.

Peg Durham read a letter from Robert Michael Eschenfelder and Ted N. Williams, attorneys from Manatee County Commission, stating the Trustees are within their powers according to the Special Act Charter, Chapter Laws 2002-361, Laws of Florida. They also suggest that our constituent contact an attorney of her choosing who may advise her on the variety of administrative or legal options available to her to address her concerns with the District's Governance.

Peg Durham read a letter from Linda Ferdinand from the Post Office regarding the rent increase. She stated she had to pay \$1.25 from her account, she cannot send this on to the U.S. Postal service. She received a letter about dredging costing homeowner \$32,000.00 each. She is opposed and asked Trailer Estates to also oppose this.

Peg Durham read a letter from the Supervisor of Election - Bob Sweet, stating the following individuals qualified and ran unopposed for the five vacancies: Joe Bigley, Margo Cushman, Peggy Durham and Bruce Smith. Trailer Estates enabling legislation provides for an appointment for the fifth seat.

Peg Durham read a letter to Mr. Rice of DeSears Appliance & Home Entertainment from Janet Jones to get an update on the progress of the south and west parameter fence that was to be removed and replaced.

Peg Durham read a letter from George Deninus to Mary Lou McNulty about the price of the fence and the water line he hooked into on our property. He enclosed a check to cover 75% of the cost.

REPORT OF TREASURER: None

APPROVAL OF BILLS: None above the pre-approved amount.

INFORMATIONAL REPORTS FROM TRUSTEES:

EXHIBIT

Durham
#12
FC 12/21/09

Pam Coie will be calling a meeting for Dances, New Years Eve and Christmas party
The Entertainment Committee will meet this Wednesday at 10:00 a.m. in the small hall.

Margo Cushman said there would be Pot Luck this Wednesday, October 18th at 5:00 p.m.

Mike Neal apologized if he has missed any phone calls.

Janet Jones said the Trader Advertising would stop throwing their papers on driveways.
Park fee for mowing lawns is \$60.00 and \$30.00 for picking up fruit and spraying weeds.
Health and Welfare needs volunteers to drive people to doctor appointments.

Janet Jones took a pole of the Trustees in favor of contacting an attorney specialized in
"Legislative Law". Passed 7-0.

REPORTS FROM STANDING COMMITTEE:

John Vander Molen - 6807 Mass. - People need to know they need permits for additions,
steps and other types of changes on the outside of their homes. The ARC can also help
in finding the corner stakes on your property. They do not do surveys.

Flo Mallory - 6919 West Bayou - At the last Future Planning Committee meeting they
did not have a quorum. The next meeting will be on November 1, 2006 at 1:00 p.m.
They are very interested in improving the beach area.

Bob Baugh said the Marina Committee would meet this Thursday, October 18th at 3:00
p.m. in the small hall. Everyone is welcome.

RESIDENTS COMMENTS AND QUESTIONS:

Dale Cruickshank - 6505 Dakota - Asked how attorneys do we have? He was told they
are only paid when needed. They are in a retainer.

Toni Smith - 2316 New York - Is there a procedure on giving out letters to Trustees?
Janet said all Trustees get copies on a need to basis.

Mary Lou Smith - 6907 Tarpon Lane - Read a letter about what she feels she needs from
the trustees on charging fees and abiding by the laws. She gave to each Trustee
"The Florida Special District Handbook"

Gail Opper - 1915 Minnesota - Said she is against the negativity of some people and
feels the trustees do a fine job and thanked them for everything they do.

John Vander Molen - 6807 Mass. - Talked about the canal dredging of Bay View Shores
Bay Drive. John asked if we would have to pay also on this project since we are adjacent
to it. Someone should check into this.

Bob Gentner - 2108 Illinois - What is being done about putting water and electric behind
the R.V. parking? He said Wayne Hamblen say's nothing is being done on this and
Wayne said he is getting prices on this.

OLD BUSINESS: None

11

TRAILER ESTATES PARK AND RECREATION DISTRICT
BOARD OF TRUSTEES
REGULAR MEETING

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REPORT OF TREASURER: None

APPROVAL OF BILLS: None above the pre-approved amount.

INFORMATIONAL REPORTS FROM TRUSTEES:

EXHIBIT

FC #13
12/2/07

McNulty DT Docs -000182

Pam Cole will be calling a meeting for Dances, New Years Eve and Christmas party.
The Entertainment Committee will meet this Wednesday at 10:00 a.m. in the small hall.

Margo Cushman said there would be Pot Luck this Wednesday, October 18th at 5:00 p.m.

Mike Neal apologized if he has missed any phone calls.

Janet Jones said the Trader Advertising would stop throwing their papers on driveways.
Park fee for mowing lawns is \$60.00 and \$30.00 for picking up fruit and spraying weeds.
Health and Welfare needs volunteers to drive people to doctor appointments.
Janet Jones took a pole of the Trustees in favor of contacting an attorney specialized in
"Legislative Law". Passed 7-0.

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Bob Gentner – 2108 Illinois – What is being done about putting water and electric behind
the R.V. parking? He said Wayne Hamblen say's nothing is being done on this and
Wayne said he is getting prices on this.

OLD BUSINESS: None

NEW BUSINESS:

Wayne Hamblen made a motion to accept the bid of \$2450.00 from Mike Heath & Sons for repair work of the south spa & shower exterior wall. 50% down and balance on completion. Other Bids: Custom Walls \$3800.00 and Advantage Stucco \$2640.00. Peg Durham seconded. Passed 5 to 2.

Mike Neal made a motion to notify, per letter to all property owners, of lawn violation (Deed Restriction number 7), and no longer notifying their lawn person on file. Seconded by Wayne Hamblen. Passed 6-1.

REPORTS OF CLUBS AND ORGANIZATIONS:

Bruce Smith – 2316 New York – October 23, 2006 the Yacht Club is having an Pig Roast at the beach. Tickets are on sale at the Post Office today through Thursday and tickets are \$8.00 and only 150 tickets will be sold.

They need help at the Fire Department. There is a notice on Channel 96 and they will train anyone interested. It is a great service to the park to help out.

Kay Hislop – 1703 Minnesota – Hobby will start on Thursday, November 2, 2006 and will only be on the 1st Thursday of each month and lunch will be served.

Clogging has not started yet, but there will be beginning classes.

Rug Weaving is to start soon.

Pam Cole made a motion to adjourn. Seconded by Joe Bigley and passed 7-0.

Peg Durham
Secretary