

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CASE NO. 2008-CA-11315

MARY LOU SMITH, an
individual, and SHARON
DENSON, an individual,

Plaintiffs,

v.

TRAILER ESTATES PARK AND
RECREATION DISTRICT, an
independent special taxing
district, JANET JONES, an
individual, JOHN VANDER MOLEN,
an individual, JOSEPH SALRENO,
an individual, and MARY LOU
McNULTY, an individual,

Defendants.

CONDENSED
COPY

DEPOSITION OF: KATHERINE HISLOP

DATE: August 27, 2009

TIME: 1:41 p.m. to 2:15 p.m.

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

REPORTED BY: YVONNE CORRIGAN, CSR, RPR, CRR
Notary Public-State of Florida

APPEARANCES:

Appeared on behalf of the Plaintiffs:

JENNIFER R. COWAN, ESQUIRE
LEWIS, LONGMAN & WALKER, P.A.
1001 Third Avenue West
Suite 670
Bradenton, Florida 34205

Appeared on behalf of the Defendant Trailer Estate Parks
and Recreation District:

ZACHARY L. ROSS, ESQUIRE
KIRK PINKERTON, P.A.
1301 Sixth Avenue West
Suite 401
Bradenton, Florida 34205

Appeared on behalf of the Defendant Janet Jones:

ARTHUR S. HARDY, ESQUIRE
MATTHEWS, EASTMOORE, HARDY,
CRAUWELS & GARCIA, P.A.
1777 Main Street
Suite 500
Sarasota, Florida 34236

Appeared on behalf of the Defendant Mary Lou McNulty:

WARREN A. PIES, ESQUIRE
DYE, DEITRICH, PETRUFF & ST. PAUL, P.L
Suite 300
1111 Third Avenue West
Bradenton, Florida 34205

Also Present: John Vander Molen
Barbara McNeil

PROCEEDINGS

THEREUPON,

KATHERINE HISLOP,

having been first duly sworn, testified as follows:

-- DIRECT EXAMINATION --

BY MR. ROSS:

Q. Thank you for being here, Ms. Hislop. My name
is Zachary Ross with Kirk Pinkerton. We represent the
Trailer Estates Park & Recreation District in this
matter.

Would you please state your name for the
record.

A. Katherine Hislop.

Q. And what's your current address here in
Florida?

A. Physical address or mailing address?

Q. Physical address.

A. 1703 Minnesota Avenue.

Q. Have you ever had your deposition taken
before, ma'am?

A. No.

Q. Let me just kind of explain some basic ground
rules. First of all, as you see, there's a court
reporter who is recording what we say. So in order for
her benefit, please wait until I've finished my question

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EXHIBITS:

(No exhibits were marked.)

ATTACHMENTS:

(No attachments.)

and I'm finished speaking before you answer, even if you
know where I'm going with my question. And I will try
to extend you the same courtesy and allow you to finish
speaking before I start talking, just because it's hard
for her to record two people talking at once.

In addition to that, I ask that you verbalize
your answers. It's hard for her to record you shaking
your head or nodding, so please respond with a yes or
no. If you don't understand any of my questions, please
ask me to rephrase the question, and I will try to do a
better job of phrasing it so that you can understand it.
And of course, if you need a break or you need some
water or anything, just ask, and we'll allow you to do
that.

How long have you lived in Trailer Estates?

A. It will be 11 years the end of the month, or
September.

Q. During your 11 years at Trailer Estates, have
you ever served on the board of trustees?

A. No.

Q. Have you ever served on a committee for
Trailer Estates?

A. Yes.

Q. Which committee did you serve on?

A. As I recall, going back a few years, one was a

1 program selection committee, or something like that; the
2 web site committee. And formal committees, I'd have a
3 hard time naming committees. I have been very active in
4 doing stuff in the park.

5 Q. I guess are you talking about you have been
6 volunteering to do certain activities, but it wasn't
7 necessarily serving on a committee?

8 A. I don't recall serving on a committee
9 designated by the board.

10 Q. Okay. So the program selection committee and
11 the web site committee, they weren't underneath the
12 board?

13 A. Those were, I'd say, board affiliated. The
14 other -- maybe there were other things that I've done
15 that I don't recall at this time. If you want to
16 refresh my memory, somebody, fine.

17 Q. Okay. That's fine. Do you recall when you
18 served on the program selection committee?

19 A. Five or six years ago. Can't come up with a
20 date.

21 Q. Okay. And do you recall when you served on
22 the web site committee?

23 A. I'd say fall of '06, certainly all of '07,
24 '08. Those dates I don't have with me. If you want me
25 to go home and look them up, I could call you.

1 know, when everyone else was gone, I got to be web
2 master. And otherwise I was a critic, an editor,
3 contributor, and would occasionally publish. And
4 because I'm the kind of person if you've got a committee
5 and things aren't moving, I quite often assume a
6 leadership role, so who knows what I might have done.

7 Q. Do you remember what your specific tasks were
8 on the web site committee?

9 A. Cooperating with the others, gathering
10 information, organizing facts and figures, like I was
11 responsible for the clubs and organizations portion of
12 the web site. Would make sure that things followed
13 along so that we got the information we needed so that
14 we could publish it in a timely manner.

15 Q. How frequently did you publish?

16 A. Initially, two or three times a week until we
17 got it started. More recently, toward the end of last
18 year, I'd suspect we published twice a week. We would
19 meet twice a month, certainly publishing after those
20 meetings. And if there was updating or editing to do,
21 we'd do it between times. And then always made sure we
22 had the agendas and the minutes and everything. So
23 quite often if something happened today and the event
24 was the next week, we'd get it on right then. We had no
25 schedule.

1 Q. No, that's fine. Who was on the program
2 selection committee with you?

3 A. Jean Fish, Bev Ferguson.

4 Q. I'm sorry, what was that name?

5 A. Bev, Beverly Ferguson. And at least one other
6 person whose name I don't recall.

7 Q. And who served on the web site committee with
8 you?

9 A. John White, Bruce Smith, Ed Ogle, O-G-L-E,
10 Shirley Klotz, K-L-O-T-Z.

11 Q. And do you remember what was the purpose of
12 the program selection committee?

13 A. To screen out agencies who might want to come
14 into the park and sell people insurance policies,
15 medical care, things they didn't really need. It was to
16 protect the clients in the park.

17 Q. And then what was the purpose of the web site
18 committee?

19 A. To establish, initiate, and publish a decent
20 web site.

21 Q. Did you ever serve as an officer on one of
22 those committees?

23 A. I might have been chairman of the program
24 committee. I don't recall. As an officer, all of us on
25 the web site committee had tasks that we did, and you

1 Q. Were there ever occasions where a member of
2 the board of trustees would attend a web site committee
3 meeting?

4 A. Always. Maybe not always. Let me say
5 usually. Because if it was a posted meeting, they
6 certainly tried to be there.

7 Q. Was there one particular trustee that
8 typically was the person at the meetings?

9 A. The initial person was Mary Lou McNulty.

10 Q. After that?

11 A. Bruce Smith.

12 Q. Was there ever an occasion where two or more
13 trustees attended a web site committee meeting?

14 A. There may have been, but I don't specifically
15 recall.

16 Q. Was there ever an occasion where a trustee
17 attended the program selection committee meetings?

18 A. No, not that I recall.

19 Q. Are you familiar with The Sunshine Law?

20 A. Yes.

21 Q. What is your understanding of the Sunshine
22 Law?

23 A. That all meetings should be open to the
24 public, posted, and that no business should be
25 transacted outside of the meeting.

1 Q. Have you ever seen or heard two or more
2 trustees speaking outside of an open noticed board
3 meeting regarding matters that can come before the
4 board?

5 A. Countless times.

6 Q. Could you tell me about the specific times
7 that you recall?

8 A. No, because for years things functioned with
9 that happening all the time, and so I can't say that
10 there was a time and place specifically because this is
11 the nature of how our park has been functioning for
12 years.

13 Q. So you don't know of a specific incident in
14 which two or more trustees were talking outside of an
15 open noticed public meeting regarding matters that could
16 come before the board?

17 A. I do not keep a journal or a log or a diary
18 and run home and write things down. So no, my memory
19 does not cite any particular time or place, or member of
20 the discussion.

21 Q. Are you familiar with the Public Records Law?

22 A. I probably am, but I can't state to you what
23 it means. It just means to me that things should be
24 open and above board, and if someone wants to see
25 something, they should be able to get it in a timely

1 office to request very many things.

2 Q. Okay. But when you did go to the office and
3 request something, did you receive the document that you
4 requested?

5 A. Not always immediately.

6 Q. But eventually you did receive it?

7 A. I can't specifically cite any one item that I
8 might have requested that I was denied.

9 Q. Okay. So you don't remember any specifics
10 about any public records request you could have made?

11 A. No. If someone wants to refresh my memory, I
12 might be able to recall it.

13 Q. Have you ever heard or seen anyone else make a
14 public records request?

15 A. I've seen people in the office requesting
16 information, yes.

17 Q. Have you ever seen or heard anyone get denied
18 a public records request?

19 A. I can't pinpoint any particular incident, but
20 I have seen people walk away from the office feeling as
21 if they had been ignored, denied help, or not respected
22 enough to have been given the material they needed.

23 Q. But you don't remember any specific incident
24 where you saw or heard someone get denied a public
25 records request?

1 manner.

2 Q. Have you ever made a public records request?

3 A. For specific things, like minutes or some of
4 those things, yes. On the web site committee we very
5 often had to request items.

6 Q. Were you ever denied a public records request?

7 A. I can't say that things happened in a timely
8 manner. And I have a feeling, it's a gut level reaction
9 to your question, that says, yes, there were times when
10 either the person who might have been able to supply it
11 was either too busy, unable to, or unwilling.

12 Q. Okay. Do you remember a specific incident
13 where you made a public records request and you did not
14 receive the document or documents that you requested?

15 A. Because I have been fairly active in the park
16 and got quite involved in the web site committee, there
17 were so many times when I'd go to the office for
18 assistance or for information and eventually felt like
19 it was either hopeless or not worth bothering with, and
20 especially in the past six months.

21 Q. But you don't recall any specific incidents
22 where you were denied a public records request?

23 A. I never was nosy enough to want to get a
24 record that I couldn't get either off the web site or
25 from some other place. I didn't bother to go to the

1 A. No.

2 Q. Have you ever heard any of the current or
3 former trustees of Trailer Estates admit to violating
4 The Sunshine Law?

5 A. I think it has come out in meetings. And
6 personally? State your question again, please.

7 Q. Okay. Have you ever heard any of the current
8 or former trustees of Trailer Estates admit to violating
9 The Sunshine Law?

10 A. I think it's been alluded to, and even at
11 meetings, but unless I were to go back and replay the
12 tapes of the meetings, I couldn't say any particular
13 incident.

14 Q. So you can't recall a specific incident where
15 a trustee admitted to violating The Sunshine Law?

16 A. No. I have heard that it has happened, but I
17 have not personally witnessed it.

18 Q. Have you ever heard any of the current or
19 former trustees admit to violating the Public Records
20 Law?

21 A. No, I don't believe so.

22 Q. I have just a couple of more questions, and
23 please don't take offense to them, I ask them at every
24 deposition I take.

25 Have you ever been convicted of a crime

1 anywhere in the world?

2 A. No.

3 Q. Thank you. Have you ever been diagnosed with
4 a mental illness?

5 A. No.

6 Q. Have you ever received treatment for drug or
7 alcohol abuse?

8 A. No.

9 MR. ROSS: I don't have any more questions for
10 her.

11 MR. PIES: I have a couple of questions.

12 -- CROSS-EXAMINATION --

13 BY MR. PIES:

14 Q. Ms. Hislop, do you know Mary Lou McNulty?

15 A. Yes, I do.

16 Q. And your previous statement that you've never
17 witnessed -- or you can't recall a specific violation of
18 The Sunshine Law, does that statement apply to
19 Mrs. McNulty as well?

20 A. Yes. However, I have witnessed her using her
21 office for discussions and excluding people who may have
22 been there to participate in some type of dialogue and
23 she would go off with another board member to further
24 their discussion.

25 Q. Do you recall the subject matter of those

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1 know, with all nine of the board members.

2 Q. These discussions only took place in that
3 office, or --

4 A. It's hard for me to not bring in some of the
5 things that I have heard, as you might say, gossip, but
6 I know that there are times when after a social event
7 when only the board members were allowed to go or only
8 the chosen few were allowed to attend that something
9 would have been discussed that then comes out on the
10 table somewhere either the next day or at the next
11 meeting. So it appears to many of the people in the
12 park that the board members have a working arrangement
13 and for years it has worked for the park. I'm not
14 saying that there's been anything wrong with it in the
15 past. It no longer functions that way.

16 MR. PIES: I have nothing else.

17 -- CROSS-EXAMINATION --

18 BY MR. HARDY:

19 Q. As I told you before, my name is Art Hardy,
20 and I represent Janet Jones. I take it you know
21 Ms. Jones?

22 A. Mm-hmm.

23 Q. You had said in response to some questions
24 that you were aware that Ms. Jones met with Ms. McNulty
25 in Ms. McNulty's office?

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1 discussions?

2 A. No, because, hey, there's so many things that
3 get talked about in the office that I don't recall a
4 particular incident.

5 Q. Do you recall if it was a matter that could
6 come before the board in the future?

7 A. Yes.

8 Q. But you can't recall the specific nature?

9 A. No.

10 Q. Do you have a time frame for when about those
11 discussions took place, the specific discussions you're
12 referring to?

13 A. I think it was an ongoing practice throughout
14 the years. Perhaps it has been more frequently done in
15 the past two years.

16 Q. Have you ever witnessed Mrs. McNulty, or can
17 you recall a specific instance where Mrs. McNulty has
18 violated the Public Records Law in some way?

19 A. No.

20 Q. Do you recall who the other board members were
21 or the trustees were that were in Mrs. McNulty's office
22 from time to time?

23 A. Janet Jones, Margo Cushman. In the office, I
24 can -- you know, there were others, I'm sure, but
25 discussions happened in that office all the time, you

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1 A. In either one of their office. They both have
2 been chairman and held that office.

3 Q. So they would have met when one or the other
4 of them were chairman?

5 A. Yes.

6 Q. And this is outside of a publicly noticed
7 meeting is what we're talking about; is that correct?

8 A. Yes.

9 Q. And were you in the office with them when this
10 was going on?

11 A. Not in that particular office. I can remember
12 times when because of the proximity of the desk where
13 the office staff are, the hallway and the chairman's
14 office, and then the secretary and the treasurer's
15 offices, there's this little nucleus of area there where
16 people meet and talk and chat. If you come in to ask a
17 question, it's real handy if someone is there to
18 initiate a discussion. So a lot happens in that area
19 and in the back office where the other board members
20 are.

21 So restate your question after I said that.

22 Q. I guess I'd like to know where you were
23 physically when you saw the two of them meeting?

24 A. I have been in that office so many times that
25 I'd say 50 to 100 times I've heard talking that does

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1 result in action, because that's how things get done, is
2 people talk ahead of time. And they may not
3 specifically say, okay, you're going to raise the
4 question and vote this way, but it happens all the time.

5 Q. And again, where were you when you heard this
6 conversation?

7 A. A particular conversation? I was usually in
8 the hallway or in one of the offices. I can't -- if
9 you're saying specifically a given time, I don't know
10 where I was. I'm there too often.

11 Q. And were you able to actually hear them, or
12 did you just see them talking?

13 A. Hear them.

14 Q. And could you give me an instance of what it
15 was you heard them discussing?

16 A. I'm old enough that I don't file all those
17 things away in the back of my mind. I do not know.

18 Q. So you don't have any recollection in any of
19 those times of any specific issue that they were
20 discussing; is that correct?

21 A. You're right.

22 Q. Other than the meetings that you just
23 described between Ms. Jones and Ms. McNulty, are you
24 aware of any other times where Ms. Jones met with
25 another trustee or trustee-elect outside of a noticed

1 believe that's what you said, and correct me if I'm
2 wrong.

3 A. It seems to me that they have, in passing,
4 either at meetings or before or at some times, admit
5 that there have been times when situations have occurred
6 where they have violated it.

7 Q. Do you recall that specifically happening,
8 what you just described, involving my client, Ms. Jones?

9 A. In particular I can't sort her out and put the
10 finger on her.

11 Q. So you don't have any such recollection?

12 A. No.

13 Q. You said you have lived 11 years at Trailer
14 Estates; is that correct?

15 A. I've owned the property and stayed there for
16 six to nine months for all of those years. The first
17 few months I would return to Michigan for three or four
18 months in the summer.

19 Q. What months do you typically live in Trailer
20 Estates?

21 A. September to June. And now, the past eight
22 years, I've probably stayed summers, too.

23 Q. So you're there 12 months a year now for the
24 past six years?

25 A. Yes.

1 meeting to discuss issues that either could come before
2 the board or had come before the board?

3 A. There's so many interactions that a board
4 member has with the public that it's hard to sort out
5 which one of the events I may have observed in the past
6 is applicable to your question.

7 Q. Okay. Well, all I can ask you for is what you
8 remember.

9 A. I don't remember anything in particular that I
10 can say, yes, on this day they talked about that
11 subject.

12 Q. Can you remember any meetings, even if you
13 don't remember the day, where Ms. Jones met with another
14 board member or board member-elect outside of a noticed
15 meeting to discuss issues that either could reasonably
16 come before the board, other than the McNulty meetings?

17 A. Is your question implying that they met
18 purposely to discuss this, or do you mean casually met
19 and discussed?

20 Q. I'm asking for any observations that you made.

21 A. I'll have to admit that I do not recall.

22 Q. Fair enough. I'm just trying to -- just
23 trying to understand what you remember.

24 You testified earlier that you believed board
25 members had alluded to violating The Sunshine Laws. I

1 MR. HARDY: I don't have any other questions.
2 Thank you.

3 -- CROSS-EXAMINATION --
4 BY MS. COWAN:

5 Q. Were you subpoenaed to come to the deposition
6 here today?

7 A. Could you speak up.

8 Q. Were you subpoenaed to come to the deposition
9 here today?

10 A. Yes, I received this letter at 10:15 this
11 morning.

12 Q. Did you want to come?

13 A. I have some apprehension about what I might
14 say or do that I would not be pleased with afterwards.
15 Yes, "apprehension" is a good word.

16 Q. And why do you have this apprehension?

17 A. Probably because I care so much about the park
18 and keeping it going well like it has in the past; that
19 I don't want to jeopardize it or prolong the expenses.
20 I'd like to see some reconciliation happen, and you
21 know, if possible, I'd be glad to be a part of a
22 fact-finding board to sit with others and try to resolve
23 some of these issues, because -- can I keep talking or
24 do you want to ask a question?

25 Q. Go right ahead.

1 A. I see that very often in the past people have
 2 not been able to listen to someone who might like to
 3 help the board or help the park in some way, and I have
 4 felt that myself. So I think one of our problems has
 5 been that newcomers or people who initiate a problem are
 6 not listened to or are not invited to talk in a
 7 reasonable manner. The board, unfortunately, is in
 8 power and wants to hang on to that power, and I'd like
 9 to see that situation resolved.

10 Q. You had talked about there being -- that you
 11 had been in the office and there had been board members
 12 discussing district business countless times.

13 A. Yes.

14 Q. You identified Ms. McNulty, Ms. Jones --
 15 A. Margo.

16 Q. -- Ms. Cushman, and then you said many other
 17 board members. Was John Vander Molen, did he ever
 18 participate in those conversations?

19 A. Yes.

20 Q. Did Joe Salerno ever participate in those
 21 conversations?

22 A. Yes.

23 Q. Can you -- you described it as commonplace.
 24 Explain to me a little bit about that.

25 A. Do you want to restate your question?

1 A. Yes.

2 MS. COWAN: That's all the questions I have.
 3 Thank you.

4 MR. ROSS: I just have a couple of quick
 5 follow-up questions.

6 -- REDIRECT EXAMINATION --

7 BY MR. ROSS:

8 Q. You mentioned that you remember multiple
 9 meetings between trustees that you saw outside of an
 10 open and noticed board meeting, correct?

11 A. Yes.

12 Q. But you're unable to recall any specifics
 13 regarding those meetings, correct?

14 A. Yes.

15 Q. And in regards to the public records request,
 16 you're unable to recall any specific public records
 17 request in which you did not receive a response?

18 MS. COWAN: Objection. Asked and answered.

19 THE WITNESS: What was your comment?

20 MS. COWAN: It was a comment for the reporter.

21 BY MR. ROSS:

22 Q. Do you want me to repeat my question?

23 A. Yes.

24 MR. ROSS: Could you read the question back.
 25 (Whereupon, the requested portion was read

1 Q. Actually, I'll withdraw it. I'll ask a
 2 different question.

3 A. Okay.

4 Q. One of the other statements that you made is
 5 that multiple times you had submitted public records
 6 requests for the web site committee; is that correct?

7 A. Yes.

8 Q. Can you tell me how often you were in there
 9 submitting requests, approximately?

10 A. During the initial introductory phase of
 11 setting up the web site, there were countless times.
 12 And because the mechanism within the office wasn't set
 13 up because of a lack of training, perhaps, on how to
 14 use, say, a PDF file or something like that, they were
 15 unable to supply things to the web site in a manner that
 16 would alleviate our having to walk physically into the
 17 office and get it. They were unable to send things
 18 electronically. So there was a constant need at first
 19 to go in for minutes, agendas, corrected minutes, some
 20 of those kinds of things, program information, you know,
 21 about activities in the park, lots of times.

22 Q. And your goal in obtaining these documents was
 23 to put them on the web site?

24 A. Yes.

25 Q. And this was the district's web site?

1 back by the reporter.)

2 MS. COWAN: Same objection.

3 BY MR. ROSS:

4 Q. You can still answer the question.

5 A. Specifically I can't name a particular item or
 6 date.

7 Q. Okay.

8 MR. ROSS: I don't have anymore questions.

9 MR. HARDY: Nothing further.

10 MR. ROSS: As we said -- we'll go ahead and do
 11 it on the record -- you have the right, if you
 12 want to, to read the deposition should we get it
 13 transcribed so that you can make sure that the
 14 court reporter --

15 THE WITNESS: Should you get it. Does that
 16 imply that you don't --

17 MR. ROSS: I don't know whether or not we're
 18 going to order it at this moment.

19 THE WITNESS: Oh, okay.

20 MR. ROSS: But if we do order it, then you
 21 would like to reserve your right to be able to
 22 read it, correct?

23 THE WITNESS: Yes.

24 (The deposition concluded at 2:15 p.m.
 25 Reading and signing were not waived.)

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