

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

CIRCUIT CIVIL CASE NO. 2008-CA-11315

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:
MARY LOU SMITH, an individual, and :
SHARON DENSON, an individual, :
:
Plaintiffs, :
:
DEPOSITION OF
vs. :
:
JANET JONES
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. :
:
-----X

TAKEN BY: THE PLAINTIFFS HEREIN

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

DATE: May 19, 2009
Commencing at 9:14 A.M.

PLACE: LUCENTE & ASSOCIATES, INC.
526 Twelfth Street West
Bradenton, Florida 34205

1 A 2007 and eight.

2 **Q Have you held other offices for the Board?**

3 A When I was first selected to join the Board, I
4 was in charge of Seasonal Entertainment for about six
5 months. And then they moved me to Health and Welfare.

6 **Q Okay. So other than Seasonal Entertainment,**
7 **Health and Welfare, and Chairman, have you held any**
8 **other offices while you've been a Trustee?**

9 A No.

10 **Q Okay. Have you held any committee Chairs**
11 **while you've been a Trustee?**

12 A Yes, in 2007 and eight.

13 **Q What committee Chair?**

14 A Chairman of the Policy and Procedures.

15 **Q Have you held any other committee Chairs since**
16 **you've been on the Board of Trustees?**

17 A No.

18 **Q Have you -- go ahead.**

19 A No, not committee Chairman, no.

20 **Q Okay. Have you been on any committees since**
21 **you've been a Trustee?**

22 A Oh, I got to stop and think.

23 No, not to my knowledge.

24 **Q Okay. While a Trustee, have you served as a**
25 **liaison to any committees?**

1 A Yes, I served as a liaison, but -- to the
2 Future Planning.

3 **Q Have you served as a liaison to any other**
4 **committees?**

5 A No.

6 **Q What are the duties of a liaison, or what were**
7 **your duties of a liaison to the Future Planning**
8 **Committee?**

9 A To attend the meetings and listen to their
10 discussions and report to the -- give a report to the
11 Chairman of the Board.

12 **Q Okay. When you gave a report, was that verbal**
13 **or in writing?**

14 A No, it was in writing.

15 **Q And when were you a liaison to the Future**
16 **Planning Committee?**

17 A 2007, eight --

18 I believe it was 2005 and six. I'm not sure,
19 but I think it was during that time.

20 **Q Who was the Chairman of the Trustees at that**
21 **time?**

22 A Mary Lou McNulty.

23 **Q Who was Chair of the Future Planning Committee**
24 **at that time?**

25 A Florence Mallory.

1 **Q Was Florence Mallory also a Trustee?**

2 A No.

3 **Q Was there a Trustee on the Future Planning**
4 **Committee at that time?**

5 A No.

6 **Q So you would attend the meetings; would you**
7 **participate in the meetings?**

8 A If they asked my opinion and give what
9 information I could.

10 **Q What were the -- what were the**
11 **responsibilities of the Future Planning Committee, what**
12 **did they speak about?**

13 A Most generally what the Board wanted them to
14 pursue.

15 **Q So they would take specific direction from the**
16 **Board?**

17 A Uh-huh.

18 **Q "Yes?"**

19 A Yes.

20 **Q Okay. And then they would follow up on that**
21 **Board direction in meetings?**

22 A (Nods head up and down.)

23 **Q "Yes?"**

24 A Yes.

25 **Q Okay. And then you would report back to the**

1 **Chairman?**

2 A Yes.

3 Q Okay. When you would give your written
4 reports to the Chairman, did that -- those matters then
5 go up before the Board of Trustees?

6 A Yes, it was up to the Chairman.

7 Q Okay. And so you'd have a portion of a Board
8 meeting where you would talk about the Future Planning
9 Commission actions?

10 A It was generally the Chairman.

11 Q Okay, all right. So you would report in
12 writing to the Chairman, and then the Chairman would
13 take your notes and they'd put it -- he or she would
14 put it on the agenda for discussion at the Board of
15 Trustees?

16 A Uh-huh.

17 Q "Yes?"

18 A Yes.

19 Q Okay. When you would report in writing to the
20 Chair -- and at that time you believe it was Mary Lou
21 McNulty?

22 A It was -- say that again?

23 Q You believe the Chair at that time was
24 Mary Lou McNulty?

25 A Yes.

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Q Okay. Would you and Mary Lou then have discussions --

A No.

Q -- prior to the Trustees Board meeting about --

A No.

Q -- the Minutes that you provided?

A No.

Q Okay.

MR. CARROLL: Object to form.

BY MR. HENNESSY:

Q Well, would your notes sometimes include questions to the Chairman?

A No, I just reported what Minutes were of the -- of discussion at the meeting.

Q What were your duties when you were Chairman?

A Well, generally duties to oversee the running, appointing committees.

Q Uh-huh. Was it your responsibility then to personally run the entire District when you were Chairman?

MR. CARROLL: Object to form.

THE DEPONENT: I don't know how to answer that.

- - - - -

1 **Board meeting?**

2 A Uh-huh.

3 **Q Is that a, "yes?"**

4 A Yes.

5 **Q Okay. It's difficult.**

6 A I know.

7 **Q What other day-to-day responsibilities did you**
8 **have as a -- when you were Chairman?**

9 A Overseeing Trustees; if complaints came in,
10 direct them to the proper Trustee for dispersal.

11 **Q What kind of complaints?**

12 A Well, there were complaints concerning Deed
13 Restrictions.

14 **Q What kind of Deed Restrictions?**

15 A There was a Deed Restriction problem on
16 Nebraska about the lot lines, and it kind of ended up
17 in a civil between the people.

18 **Q Which people?**

19 A Mr. Sipich and Linda Brush.

20 **Q Do you know how, "Sipich," is spelled?**

21 A S-I-P-I-C-H.

22 **Q So did you have to resolve that issue?**

23 A I was subpoenaed to court by Mr. Sipich.

24 **Q Did you testify in court about that?**

25 A I went to court.

1 **Q Okay. And did you actually have to testify?**

2 A No. When the Judge asked me why I was there,
3 I told him that I was the Chairman of nine volunteer
4 Trustees and that I had no personal knowledge on either
5 side that I could testify to.

6 **Q Uh-huh.**

7 A I wasn't involved in that; that I directed
8 complaints that come in to the proper Trustee to
9 handle, and the Judge dismissed me.

10 **Q Okay. So with regard to Deed Restriction**
11 **complaints, were you responsible for dealing with those**
12 **or was there another Trustee?**

13 A There were other Trustees responsible for
14 that.

15 **Q Which --**

16 A Public Relations, one.

17 **Q Which Trustee would that be at that time in**
18 **2007, 2008 when you were -- when you were Chair?**

19 A Huh. Let's see, that was on the north side.
20 I believe it was Joe Bigley, but I'm -- I'm
21 not sure.

22 **Q Okay. Did you ever utilize the Administrative**
23 **Committee or otherwise referred to as an Executive**
24 **Committee to assist you in the day-to-day operations of**
25 **the District?**

1 **Trustees of the --**

2 A Trustees.

3 Q Okay.

4 A Yes.

5 Q All right. And were you in attendance at that
6 meeting?

7 A Yes.

8 Q Okay. Then was Kirk-Pinkerton's retention as
9 District Counsel discussed and voted on at that
10 meeting?

11 A Yes, it was.

12 Q Okay. Did you participate in that vote?

13 A Yes.

14 Q And did you vote to hire Kirk-Pinkerton?

15 A Yes.

16 Q All right. Do you know when that occurred?

17 A 2006 -- I can't remember the exact date, but
18 it was around October 2006 or seven? I'd have to look
19 it up.

20 Q Okay.

21 A I don't know.

22 Q Why do you think it was around October?

23 A I don't -- it just sticks in my mind.

24 Q Okay. Do you know why the District voted to
25 retain Kirk-Pinkerton as District Counsel?

1 A (Nods head up and down.)

2 Q So that process of the Executive Committee
3 making recommendations on candidates to fill the vacant
4 Trustee spots, that stopped based on the
5 recommendations of Kirk-Pinkerton?

6 A Yes.

7 Q Do you have any understanding of what process
8 the Executive Committee went through in selecting a
9 candidate to fill a vacancy?

10 A No.

11 Q Did you ever speak to anybody about the
12 process that they went through?

13 A No.

14 Q Are you familiar with a process of the entire
15 Board of Trustees meeting to discuss Board business
16 before a public Board meeting?

17 A Yes, for a while we had pre-Board meetings.
18 They -- we did not discuss anything that would come up
19 before the Board. It was just to get to know new
20 Trustees.

21 Q Okay.

22 A And that's it.

23 Q To educate the new Trustees --

24 A Yes.

25 Q -- on how the Board liked to do business?

1 A Uh-huh.

2 MR. CARROLL: Object to form.

3 BY MR. HENNESSY:

4 Q I'm sorry?

5 A Just to get to know the Trustees, but we never
6 discussed anything that would come up for vote.

7 Q Is that a process that goes on today?

8 A No.

9 Q Is that a process that occurred when you were
10 Chairman?

11 A No.

12 Q When did you have these pre-meetings, what
13 time frame?

14 A I don't honestly remember the time frame.

15 Q Well, you participated in these pre-meetings.

16 A Yes.

17 Q Okay. So it was sometime -- at least sometime
18 after 2002.

19 A Yes.

20 Q Okay. Where would these meetings occur?

21 A They occurred in the Conference Room of the
22 back office.

23 Q Okay. How often did you have these meetings?

24 A I honestly don't -- can't say. I don't think
25 it was every meeting. I -- I honestly don't remember

1 how many.

2 **Q Would you say it was at least monthly?**

3 A About what?

4 **Q Would you say you had one at least once a**
5 **month?**

6 A Maybe. I don't -- I'm not sure.

7 **Q Okay. Can you give me an example of some of**
8 **the matters that were discussed at these pre-meetings?**

9 A No, I can't really come up with anything. It
10 was just general discussions.

11 **Q Okay. Would the Chair run the meetings, the**
12 **pre-meetings?**

13 MR. CARROLL: Object to form; mischaracterizes
14 her testimony.

15 THE DEPONENT: No, not necessarily, no.

16 BY MR. HENNESSY:

17 **Q Who would run the Chair -- who would Chair the**
18 **pre-meetings?**

19 A Pardon?

20 **Q Who would Chair these pre-meetings?**

21 A Nobody actually chaired them.

22 **Q Nobody. Was there an agenda for the**
23 **pre-meetings?**

24 A No.

25 **Q Did you have the agenda for the subsequent**

1 **Board meeting in front of you during the pre-meetings?**

2 A Oh, yeah, we had that.

3 Q Okay. And whatever backup that might be
4 included with that agenda would be present at these
5 pre-meetings?

6 MR. CARROLL: Object to form.

7 THE DEPONENT: No. No.

8 BY MR. HENNESSY:

9 Q Just the agendas?

10 A Just the agenda.

11 Q Is it a practice for the District to have
12 backup information submitted to all the Trustees, or do
13 you pretty much just get an agenda?

14 A You mean to have information ahead of time
15 before the agenda?

16 Q Right. You know, like you might have a topic
17 say concerning a change to a policy, and so you'd have
18 attached to your agenda the current policy and the
19 proposed policy?

20 A That's correct.

21 Q Okay.

22 A Yes.

23 Q All right. So if you had that -- you would
24 have that information then also at these pre-meetings?

25 A No.

1 A Outside --

2 Q -- and had attended a seminar --

3 A No.

4 Q -- of some sort?

5 A No.

6 Q Okay. You have to let me answer -- ask the
7 whole question before you start giving your answer.

8 A Pardon?

9 Q We're starting to talk over one another.

10 A Oh.

11 Q You need to wait till I'm done.

12 The dispute that you were talking about
13 involving Brush and -- what was the other name?

14 A Sipich.

15 Q -- Sipich, was that dealing with a carport
16 cover?

17 A Uh-huh, it was about a carport cover plus
18 other.

19 Q Okay. Issues concerning -- are you familiar
20 with OSHA?

21 A Yes.

22 Q Okay.

23 A A little bit.

24 Q Is that -- issues dealing with OSHA, does that
25 come under your responsibility as a Health and Welfare

1 **Trustee?**

2 A No, because most volunteers are not covered by
3 OSHA.

4 **Q Is that a matter then that comes before the**
5 **Board as a whole?**

6 MR. CARROLL: Object to form.

7 THE DEPONENT: Not to my knowledge.

8 BY MR. HENNESSY:

9 **Q Well, if you had any questions or concerns**
10 **about OSHA violations, is that something that you would**
11 **deal with personally or something that the Board would**
12 **deal with as a whole?**

13 A I would check into it, yes.

14 **Q Okay.**

15 A If somebody brought it up.

16 **Q Is there any other Trustee that would have**
17 **responsibility for that?**

18 A I don't know.

19 **Q Would the Chairman have responsibility?**

20 A I would say it would more likely be up to the
21 Chairman.

22 **Q Would the Maintenance Trustee have**
23 **responsibility for it?**

24 A Yes, if it concerned something with OSHA.

25 **Q Okay. Have you ever had discussions with the**

1 **Q Yes.**

2 A John Vander Molen.

3 **Q Okay. Was Mary Lou McNulty on the Board when**
4 **you were Chairman?**

5 A Yes.

6 **Q Was Mary Lou McNulty on ARC when you were**
7 **Chairman?**

8 A No.

9 **Q Who is Bernie Dent?**

10 A Bernie Dent was a member of the Future
11 Planning Committee.

12 **Q Was he ever a member of the ARC committee?**

13 A No.

14 **Q Was he ever a Board of Trustee member?**

15 A No.

16 **Q Okay. Do you recall dealing with a dispute --**
17 **a boundary dispute concerning DeSears?**

18 A DeSears?

19 **Q Yes.**

20 A I know a little bit about it. Bernie Dent was
21 trying to -- through Future Planning to get Sears (sic)
22 to put up a fence. And they agreed to do it, and then
23 something happened and it changed hands; the guy that
24 agreed to do it left and somebody else bought it out or
25 took it over.

1 MR. HENNESSY: Are you ready, Ms. Jones?

2 THE DEPONENT: Okay.

3 MR. HENNESSY: Okay. Back on the record.

4 BY MR. HENNESSY:

5 Q Before we left, you started talking about
6 Bernie Dent sending you a bunch of e-mails?

7 A (Nods head up and down.)

8 Q Was that e-mails related to the Policies and
9 Procedures Committee or --

10 A No, that was e-mails from Future Planning.

11 Q Future Planning Committee. And so then -- but
12 you wouldn't respond, you would just speak to him about
13 those matters?

14 A Yeah, if -- I didn't bother e-mailing him
15 back, I just had -- he was an e-mail nut.

16 Q Okay. And were -- but these were matters
17 related to the Future Planning Committee?

18 A Yes, uh-huh.

19 Q Okay. The one that you -- well, was this
20 while you were the liaison to the Future Planning
21 Committee?

22 A Yes, yes.

23 Q Okay. Do you recall -- can you give me an
24 example of the kind of thing Mr. Dent would ask you in
25 an e-mail and that you would discuss?

1 A I recall a Red Cross meeting that was being
2 arranged for disaster and they asked the Trustees to
3 attend the meeting.

4 **Q Do you know when that meeting occurred?**

5 A Somewhere around 2006 or seven, I'm not sure.

6 **Q Do you recall if it was before or during your**
7 **period as Chairman?**

8 A It was before my period of Chairman, yeah.

9 **Q Okay. And which Trustees attended that**
10 **Red Cross meeting?**

11 A Mary Lou McNulty was there, and I was there.
12 I think there might have been someone else, but I don't
13 know.

14 I did not take notes and I did not participate
15 in any discussions. I just listened to what they were
16 telling us.

17 **Q Did Mary Lou McNulty participate?**

18 A Pardon?

19 **Q Did Mary Lou McNulty participate in that**
20 **discussion?**

21 A She may have, I'm not sure.

22 **Q Did any other Trustees participate in that**
23 **discussion?**

24 A I believe -- oh, now I remember. I think
25 Bruce Smith was there.

1 Q Okay. Did he participate in the discussion?

2 A He probably did; I really can't remember all
3 of it.

4 Q And was this a matter then that ultimately
5 came before the Board for a discussion of disaster
6 preparedness?

7 A Yes, eventually it came before the Board.

8 Q Okay. And that meeting wasn't a public
9 meeting?

10 A Yes, it was a public meeting and it was
11 advertised on the board.

12 Q Right, but I meant the meeting with the
13 Red Cross, that wasn't a public meeting?

14 A Yeah, it was open to anybody that wanted
15 to go.

16 Q Okay. But Minutes weren't taken and it wasn't
17 advertised?

18 A I don't know whether -- I don't know whether
19 it was Bev Lew or Bruce or who was in charge of it, but
20 -- I don't know whether they took Minutes or not.

21 Q Okay. Kirk-Pinkerton and Mark Barnebey,
22 they're hired to be the District attorneys; correct?

23 A Correct.

24 Q They're not your personal attorney?

25 A No.

1 A Huh-uh. No.

2 MR. HENNESSY: All right, okay.

3 Let me go ahead and have this marked as
4 Exhibit Number Two.

5 (Whereupon, Exhibit Number Two was marked for
6 identification.)

7 BY MR. HENNESSY:

8 Q I'll go ahead and show you what's marked
9 **Exhibit Two with the title Workshop, Monday,**
10 **October 30th, 2006 (handing document).**

11 Do you recognize Exhibit Two?

12 A Do I recognize --

13 Q **Exhibit Two?**

14 A Yes.

15 Q **The document?**

16 A Yes.

17 Q **Is this a document you prepared?**

18 A Yes.

19 Q **Did you type it up yourself?**

20 A Yes, I did.

21 Q **On a typewriter or your personal computer?**

22 A This was typed on my typewriter.

23 Q **Okay. And the second page, does it reflect a**
24 **vote of the Trustees with regard to a proposal to hire**
25 **Kirk-Pinkerton?**

1 A Oh, approximately it was in the summer of
2 2006.

3 **Q Moving on, there was some discussion about a**
4 **key to the office and whether you had any decision**
5 **making authority in providing keys or not providing**
6 **keys. Could you explain to us what happened?**

7 A Yes. The secretary had a blue folder on her
8 In box on her desk that she kept all of her workshop
9 and Trustee meetings in that folder. And when she came
10 in one Monday morning, the blue folder was not in her
11 In box, and she looked all over on the desk for it,
12 looked all over the office for it, in the drawers and
13 everything, couldn't find it. And that same day, there
14 had been papers disturbed on my desk, because I put
15 them in a certain order and -- in order to know if
16 anybody bothered them. And at the same time, there
17 were two or three staplers missing from desks.

18 So I felt as Chairman of the Board for the
19 security of the office that I should change the locks
20 on the door. And I issued a memo that if anyone needed
21 to get in the office after hours, they could contact
22 the Chairman, First Vice or Second Vice.

23 I personally do not have a key to the office;
24 I do not want a key to the office, I don't want to mess
25 with the switch and have the police come out there and