

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

-----X  
 MARY LOU SMITH, an individual, and :  
 SHARON DENSON, an individual, :  
 :  
 Plaintiffs, :  
 : DEPOSITION OF  
 vs. :  
 : MARY LOU McNULTY  
 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: August 12, 2009  
 Commencing at 1:05 P.M.

PLACE: Lewis, Longman & Walker, P.A.  
 1001 Third Avenue West  
 Suite 670  
 Bradenton, Florida 34205

APPEARANCES: JENNIFER R. COWAN, Esquire  
 Lewis, Longman & Walker, P.A.  
 1001 Third Avenue West  
 Suite 670  
 Bradenton, Florida 34205  
 Appearing on Behalf of the  
 Plaintiffs

1           A     Yes.

2           **Q     And what is your understanding of the Sunshine**  
3 **Law?**

4           A     That we cannot speak about anything -- two  
5 Trustees, let me get that, two Trustees cannot speak  
6 about anything that might come up at a meeting to be  
7 voted on.

8           **Q     Okay.**

9           A     Is the main crux of the thing.

10          **Q     And have you received instruction with regard**  
11 **to the Public Records Law from District Counsel?**

12          A     Yes.

13          **Q     And what is your understanding of that?**

14          A     That all our records, all our records are open  
15 to the public, anybody can come in and get them.

16          **Q     When did you receive this instruction from**  
17 **District Counsel with regard to the Sunshine Law?**

18          A     The Sunshine Law? Oh, it would have been back  
19 maybe early '07? I don't know if there was anything at  
20 the end of '06 or not. We did not hire him until fall  
21 of '06.

22          **Q     And by, "him," you're speaking to --**

23          A     Kirk-Pinkerton.

24          **Q     Okay. And when did you receive instruction**  
25 **from District Counsel with regard to the Public Records**

1 up again.

2 Q Do you know the time period in which they  
3 stopped and then restarted?

4 A No. No.

5 Q Who instructed the District that they didn't  
6 need to keep Minutes of the workshops?

7 A I'm not sure who it came from.

8 Q During your time as Chairman, were Minutes  
9 kept of the District Board's workshop meetings?

10 A I think so.

11 MR. CARROLL: Yeah, I didn't hear that answer.

12 THE DEPONENT: I think so.

13 MR. CARROLL: Okay.

14 BY MS. COWAN:

15 Q Okay. Prior to Board meetings, were there  
16 meetings between Board members in the District Office?

17 MR. CARROLL: Form.

18 THE DEPONENT: At one time, yes.

19 BY MS. COWAN:

20 Q Can you describe those meetings to me, please?

21 A They were just get-togethers; we had a table  
22 like this and they were just a get-together where if we  
23 had any personal problems with a Trustee, something you  
24 didn't want to say in public at a Board meeting; if Joe  
25 Smith, you know, did something that wasn't very

1 appropriate, we would speak to him then and we didn't  
2 want to bring it up in public. That was all -- we  
3 never discussed what was coming up at a meeting, it was  
4 just --

5 **Q It was a get-together --**

6 A -- you know, I'm going to say a coffee break  
7 before the meeting or something.

8 **Q And when did these meetings occur?**

9 A They would happen probably about eight  
10 forty-five, the meeting was at nine thirty.

11 **Q Did it happen before every meeting?**

12 A No.

13 **Q Over what period of time did these meetings**  
14 **occur?**

15 MR. CARROLL: Object to the characterization  
16 of it being a meeting, so form.

17 MR. DYE: Join.

18 THE DEPONENT: They -- they weren't a meeting,  
19 they were just get-togethers.

20 BY MS. COWAN:

21 **Q Okay. What period of time would these --**

22 A Oh.

23 **Q -- get-togethers occur?**

24 A I'm going to say approximately a year.

25 **Q And what -- I'm sorry, what year?**

1           A     Oh, let's see.  Maybe part of '05 and early  
2 part of '06?  Maybe not even into '06, it might have  
3 just been '05.

4           **Q     Okay.  Do you recall Joe Fulmer resigning?**

5           A     Yes.

6           **Q     Was Joe Fulmer's resignation discussed at one  
7 of these gatherings?**

8           A     No.

9           **Q     Okay.**

10          A     Not what you -- what you were referring to as  
11 a pre-meeting, no.

12          **Q     Okay.  When was Joe Fulmer's resignation  
13 discussed between the Board of Trustees?**

14          A     Well, that's debatable.  Only because I -- I  
15 completely forgot -- I knew he resigned, I didn't know  
16 the circumstances; I do now because I read Pam Cole's  
17 deposition, and I do not remember going in and speaking  
18 to the Trustees about it.  Joe Fulmer at that point had  
19 not offered his resignation.  I mean, had not turned in  
20 his resignation.

21          **Q     Did Joe Fulmer talk to you about resigning?**

22          A     Joe Fulmer came in and spoke with me, yes.

23          **Q     When did that occur?**

24          A     Before he resigned, I -- let's see, he  
25 resigned I think -- I think it was September, so I'm

1 Q Did you assist her with that transition?

2 MR. CARROLL: Form.

3 THE DEPONENT: I don't think so. I left  
4 everything in my desk, and if she might have asked  
5 me where something was I might have told her.

6 BY MS. COWAN:

7 Q In the production that you provided to me this  
8 morning, there were several memos from Ms. Jones. Did  
9 you assist her with any of those memos?

10 A No.

11 Q Did she discuss with you any of the memos  
12 prior to -- prior to issuing the --

13 A I don't believe so.

14 MR. DYE: I object to the form.

15 BY MS. COWAN:

16 Q Ms. Jones issued a memo in January of '07  
17 discussing questions that she had for the attorney and  
18 asking the Trustees to respond if they had any other  
19 ones. Did you respond to that e-mail?

20 MR. CARROLL: Object to form.

21 THE DEPONENT: I don't remember.

22 BY MS. COWAN:

23 Q You said that Kirk-Pinkerton was hired in the  
24 end of '06. Why did the Board change from Ruden to  
25 Kirk-Pinkerton?

1 MR. ROSS: Object to form.

2 THE DEPONENT: Because it was brought up in --  
3 Mary Lou Smith or Sharon Denson, I don't know which  
4 one it was, in -- in some letters had said that we  
5 needed somebody that was more knowledgeable of the  
6 Sunshine Laws, so it was discussed at a meeting, at  
7 a Board meeting whether we should or shouldn't.

8 BY MS. COWAN:

9 **Q Should or shouldn't --**

10 A Hire a new attorney. So it was discussed that  
11 we would look into it.

12 I called Ron Getman and asked him if he knew  
13 of any recommendation, and he recommended Mr. Barnebey.

14 **Q Okay. So the Board's decision to hire**  
15 **Kirk-Pinkerton arose out of complaints that -- or arose**  
16 **out of issues that Sharon Denson or Mary Lou Smith were**  
17 **bringing to the Board regarding Sunshine violations and**  
18 **Public Records violations?**

19 MR. CARROLL: Form.

20 MR. TURFFS: Form.

21 MR. DYE: Form.

22 MR. ROSS: Join.

23 MR. SCOTT: Join.

24 THE DEPONENT: I would say so.

25 - - - - -

1 BY MS. COWAN:

2 Q In March of 2007, Ms. Jones sent out a memo to  
3 the Trustees requesting their input on policies and  
4 procedures that the Policy and Procedure Committee was  
5 compiling. Do you recall if you responded to that  
6 memo?

7 MR. CARROLL: Are you going to provide her a  
8 copy of that memo?

9 MR. DYE: Yeah.

10 MR. CARROLL: I mean, you've been asking  
11 questions about memos and not providing them to the  
12 witness, so can you provide the specific memo  
13 you're talking about?

14 MS. COWAN: I'll be happy to.

15 Nine? (Handing document.)

16 BY MS. COWAN:

17 Q Exhibit Nine is to Trailer Estates Trustees  
18 from Janet Jones regarding input on policies, and it's  
19 dated March 23rd, 2007. Do you recall if you responded  
20 to this memo?

21 MR. SCOTT: Object to the form; asking  
22 questions, "you," meaning, "you," individually or,  
23 "you," the Board?

24 MS. COWAN: I apologize.

25 - - - - -

1 BY MS. COWAN:

2 Q Meaning you individually, Ms. McNulty, do you  
3 -- did Ms. McNulty respond to this e-mail -- I mean,  
4 sorry, this memo?

5 A I was still reading. Would you please repeat  
6 the question?

7 Q I'm happy to.

8 Ms. McNulty, did you personally respond to  
9 this memo from Janet Jones dated March 23rd, 2007, here  
10 marked as Exhibit Nine?

11 A I don't know.

12 MR. DYE: I'm going to object to form.

13 BY MS. COWAN:

14 Q Do you recall if the Board responded to the  
15 Exhibit Nine?

16 A I don't know.

17 Q I'm marking what is Exhibit Ten; it's a memo  
18 to the Trustees (handing document) from Janet Jones  
19 dated April 6, 2007, where Ms. Jones states that  
20 Attorney Mark Barnebey had called and wanted to remind  
21 the Trustees not to talk to each other concerning  
22 anything that might come up for a vote.

23 Do you know what prompted Mr. Barnebey to  
24 call?

25 MR. ROSS: Object to form.

1 BY MS. COWAN:

2 Q You said you participated in the Website  
3 Committee. Were there two Board members participating  
4 in the Website Committee?

5 A No. There was John White, Kay Hislop, myself,  
6 and as I say I can't remember the fourth person.

7 Q But the fourth person wasn't a Board member?

8 A I don't know.

9 Q Okay.

10 A Because I can't remember who it is.

11 Q Fair enough.

12 The Future Planning Committee, you said you  
13 served as a liaison on that committee?

14 A Yes.

15 Q Was there a Board member as a member of that  
16 committee?

17 A No.

18 Q During the time you served as liaison on  
19 Future Planning, who were the other members of Future  
20 Planning?

21 A Oh, God, there's been so many.

22 There was Dorothy Naugle, Walter Dietz, Sharon  
23 Denson, Bernie Dent, John White, Mary Huston, Emma  
24 Tuttle, Ruth Langton, Margaret -- Margaret? I think  
25 Margaret something was her name, I don't remember.

1           Those are the ones I can remember recently.

2           **Q    What were your responsibilities as liaison to**  
3 **the Future Planning Committee?**

4           A    Any requests that the Future Planning  
5 Committee had of the Board, I was to bring that request  
6 back to the Board.

7           **Q    Did you vote on Future Planning Committee**  
8 **issues?**

9           A    At the meet --

10           MR. DYE:   Form.

11           THE DEPONENT:  At the Future Planning meeting?

12           BY MS. COWAN:

13           **Q    At the Future Planning Committee meetings, did**  
14 **you vote --**

15           A    No.

16           **Q    -- on any member -- on --**

17           A    No.

18           **Q    Let me finish.**

19           A    No.

20           **Q    Did you vote on any matter before the Future**  
21 **Planning Committee --**

22           A    No.

23           **Q    -- at their meeting?**

24           MR. DYE:  Let her finish the question.

25           THE DEPONENT:  No.

1 BY MS. COWAN:

2 Q Okay. What was the responsibility of Future  
3 Planning?

4 A Future planning. They were to look into  
5 things, the park in the future. Recently they were  
6 working on a survey to see what people in the park  
7 wanted.

8 Q Were Future Planning Committee meetings --  
9 first of all, did Future Planning Committee hold  
10 meetings?

11 A Yes.

12 Q Where were they held?

13 A Small Hall.

14 Q Were they noticed?

15 A Yes.

16 Q Where were they noticed?

17 A Bulletin board, Tribune, TV.

18 Q TV?

19 A On the TV channel, our local TV channel.

20 Q Channel 95?

21 A Yes.

22 Q Were Minutes taken at the Future Planning  
23 Committee meetings?

24 A Yes.

25 Q And who was responsible for those Minutes?

1 A The Secretary.

2 Q Who was the Secretary?

3 A Most recent one was Sharon Denson; the one  
4 before her was Bernie Dent.

5 Q Let's talk about the Beautification Committee.  
6 Did you participate in that committee?

7 A I went to their meetings sometimes, a couple  
8 of them, yes, in the beginning.

9 Q And during what time frame was that?

10 A I don't know.

11 Q 2006?

12 A I don't know.

13 Q While you were Chairman?

14 A Yes.

15 Q Where were those meetings held?

16 A In the office.

17 Q What office?

18 A The Trailer Estates Office.

19 Q Where in the office?

20 A Oh, where? In the back room where there was a  
21 conference table at one time. It's not there anymore.

22 Q Were those meetings noticed?

23 A I -- yes.

24 That's where they were held when I went to  
25 them. I don't know where they're held now.

1 Q When you went to them, were they noticed?

2 A Yes.

3 Q Have they always been noticed?

4 A I don't know.

5 Q Were Minutes taken?

6 A I don't know. I don't know.

7 Q Who were the members of the Beautification  
8 Committee when you attended those meetings?

9 A Lillian Walsh, Joe Trinkle, Walter Dietz.

10 Q Okay. Let's talk about the Disaster  
11 Committee. Was there a Disaster Committee that  
12 existed?

13 MR. DYE: Form.

14 THE DEPONENT: Yes.

15 BY MS. COWAN:

16 Q Was that Disaster Committee a standing  
17 committee?

18 A No.

19 Q Was it a Trustee committee?

20 A I don't know.

21 Q When did the committee exist?

22 A '07 sometime.

23 Q '07?

24 Who were the members of that committee?

25 A Pam Cole, Bev Lew. I don't know who else.

1           **Q     Did you ever attend a Disaster Committee**  
2 **meeting?**

3           A     One meeting, the first sort of like an  
4 organizational meeting.

5           **Q     Did any other Trustees attend that meeting?**

6           A     Yes.

7           **Q     What other Trustees?**

8           A     Margo Cushman.

9                     There were other Trustees, but I -- I don't  
10 want to say because I'm not sure who they were.

11          **Q     Did Mr. Vander Molen attend that meeting?**

12          A     No.

13          **Q     Did Ms. Jones attend that meeting?**

14          A     I'm not sure.

15          **Q     Did Mr. Salerno attend that meeting?**

16          A     No.

17          **Q     Did Ms. Cole attend that meeting?**

18          A     Oh, Pam, yes, Pam attended it.

19          **Q     Where was that meeting held?**

20          A     In the Large Hall.

21          **Q     Was it noticed?**

22          A     Yes.

23          **Q     How was it noticed?**

24          A     On the bulletin board and it was announced at  
25 a meeting.

1 Q Were Minutes taken?

2 A I don't know.

3 Q Was that the only Disaster Committee meeting  
4 you attended?

5 A Of that particular committee, yes.

6 Q Was there another Disaster Committee?

7 A I had a Disaster Committee to set up a  
8 disaster plan for the District.

9 Q Can you explain to me the difference between  
10 the two committees?

11 A The first committee was a disaster plan for  
12 the residents. The second one was a disaster plan for  
13 the office.

14 Q Okay. The disaster plan -- the Disaster  
15 Committee that handled the disaster plan for the  
16 residents --

17 A Uh-huh.

18 Q -- is the one that you were speaking of that  
19 Ms. Cole and Ms. Lew were members of?

20 A Yes.

21 Q And that there was the organizational meeting  
22 that you attended?

23 A Yes.

24 Q Okay. The Disaster Committee that was the  
25 plan for the office --

1 A Yes.

2 Q -- were there meetings?

3 A One.

4 Q Where was that meeting?

5 A The Recreation Center.

6 Q Who attended that meeting?

7 A Martha Brauer, myself, Kay Hislop and Bev Lew.

8 Q Was the meeting noticed?

9 A Yes.

10 Q How was it noticed?

11 A Posted on the bulletin board.

12 Q Were Minutes taken?

13 A I don't know. I don't know.

14 Q You said it met once. Did it accomplish its  
15 task of a disaster plan for the office during that one  
16 meeting?

17 A No, most of it had been accomplished before  
18 the meeting.

19 Q How was it accomplished before the meeting?

20 A Over the telephone.

21 Q Between the committee members?

22 A No, between Martha Brauer and myself.

23 And my husband.

24 Q Your husband didn't attend the committee  
25 meeting?

1 A No.

2 Q Did the disaster plan for the residents ever  
3 come before the Board?

4 A No.

5 Q Was the disaster plan that the Disaster  
6 Committee was designing, the plan for the residents,  
7 the first Disaster Committee we'll call it --

8 A Yes.

9 Q -- what was -- what was that committee tasked  
10 with?

11 A Well, I guess they were supposed to work out a  
12 plan for the residents, what would happen if they were  
13 evacuated, what the procedure would be for them to come  
14 back in and that type of thing, what -- what they would  
15 do if they were evacuated, where shelters were, that  
16 type of stuff.

17 Q After that plan was developed, what were they  
18 to do with that plan?

19 A Bring it before the Board.

20 Q The disaster plan for the office.

21 A Yes.

22 Q After that disaster plan was created, what was  
23 that Disaster Committee to do with its plan?

24 A Bring it before the Board.

25 Q Did that plan come before the Board?

1 A Yes, it did.

2 Q Did the Board vote on that plan?

3 A Yes, it did.

4 Q We've previously discussed a Seasonal  
5 Recreation Committee is what I called it and you said  
6 it was a Trustee committee for the Seasonal Recreation  
7 Trustee. Do you recall that?

8 A Yes.

9 Q Okay. What would the -- what would that  
10 Trustee committee -- what would be its  
11 responsibilities?

12 A As far as Seasonal Recreation, I don't know, I  
13 -- as I said, work on the dances and stuff and the  
14 parties, different parties that they had. I never went  
15 to their meetings so I don't know.

16 Q Would they handle Coffee Break?

17 A No.

18 Q What is Coffee Break?

19 A Coffee Break is held one Saturday a month; for  
20 a dollar-and-a-half you get a coffee and doughnut, or  
21 now it's coffee, doughnut and fruit, and sometimes  
22 there are speakers and sometimes there aren't.

23 Q Is that something that's put on by the  
24 District?

25 A Yes.

1 MR. ROSS: Are we off the record or --

2 MS. COWAN: No, because I had a few follow-up  
3 questions from actually both of what --

4 THE DEPONENT: Excuse me.

5 MS. COWAN: -- Hunter and what Zach had.

6 REDIRECT EXAMINATION

7 BY MS. COWAN:

8 Q Mr. Carroll just asked you with regard to the  
9 Disaster Committee whether or not there was  
10 participation by those Trustees attending that Disaster  
11 Committee meeting, and this was the Disaster Committee  
12 that was to -- developing a plan for the residents.

13 A Yes.

14 Q Did the Board members participate, the Board  
15 of Trustees?

16 A They did not participate at the meeting. Pam  
17 Cole, Bev Lew and Bob Moore sat at the front table and  
18 ran the meeting. We were there as -- kind of say  
19 guests.

20 Q Did you --

21 A We were there just to see what was going to  
22 go on.

23 Q Did the Trustees discuss amongst themselves  
24 what was going on at the meeting?

25 A I don't -- I don't recall them.

1           **Q     You said they tried to assign us jobs. Who's,**  
2           **"they?"**

3           A     The committee that -- that committee of three,  
4           Bev, Pam and Bob. They had pamphlets all laid out on  
5           the table of different things the Red Cross does and  
6           stuff like that, and they kind of wanted everybody to  
7           take a project. I -- I forget what the project was  
8           they were trying to assign to me, but --

9           **Q     Do you know whether you talked to anybody else**  
10          **about this meeting?**

11          A     During the meeting?

12          **Q     Yes.**

13          A     Yes, we all sat together at a table.

14          **Q     Who did you talk to?**

15          A     Margo Cushman was there. I think Janet was  
16          there. Martha. My husband. I think Mary Hollett. I  
17          have it written down somewhere who was at that meeting,  
18          I just don't know where it is.

19          **Q     And you talked to those individuals?**

20          A     Yes. Matter of fact, I think it's -- it's in  
21          stuff that you got from me. There's notes, the notes I  
22          took at the meeting.

23          **Q     Okay.**

24          A     It's written on there who was at the meeting.

25          **Q     Zach asked you with regard to Exhibit Five and**

1 also Exhibit Seven whether or not -- well, I'll go one  
2 by one.

3 Zach asked you with regard to Exhibit Five  
4 whether or not there was discussion at a public meeting  
5 regarding Mr. Neal's appointment. Do you recall that  
6 question?

7 A Yes.

8 Q Okay. Did the Board vote on Mr. Neal's  
9 appointment?

10 A Yes.

11 Q Was there open discussion where the Board  
12 actually spoke about his appointment?

13 A The motion would be --

14 MR. DYE: Form.

15 THE DEPONENT: -- made and it would be open  
16 for discussion if there was any discussion.

17 BY MS. COWAN:

18 Q Was there any discussion?

19 A I don't know.

20 Q Was there any discussion -- let me step back.

21 With regard to Mr. Featheringill's appointment  
22 and a motion was made, was there any discussion  
23 regarding Mr. Featheringill's appointment?

24 A I don't know.

25 Q Was a vote taken?

1 A Yes.

2 MS. COWAN: That's all I have.

3 RECROSS-EXAMINATION

4 BY MR. CARROLL:

5 Q With regard to the Disaster Committee meeting  
6 and maybe people were talking, was that social talk or  
7 was that about whatever that Disaster Committee meeting  
8 was?

9 A Basically social talk and -- yeah, I'd say  
10 basically social talk. We were all at the table, not  
11 quite as long as this, sitting and listening to what  
12 they had to say and -- and --

13 MR. CARROLL: I appreciate it, ma'am.

14 FURTHER REDIRECT EXAMINATION

15 BY MS. COWAN:

16 Q Talking about something other than what was  
17 happening in front of them right then?

18 A Of course.

19 Q Okay. So you were just talking about --

20 A We -- I don't know what night the meeting was,  
21 what night of the week; we might have been talking  
22 about who won at Bingo last night or we might have been  
23 talking about where we went to lunch that day.

24 MS. COWAN: Okay. Go ahead and --

25 MR. DYE: Are you ordering this?