



**PORT MALABAR HOLIDAY PARK
MOBILE HOME PARK RECREATION DISTRICT**

215 Holiday Park Blvd. NE
Palm Bay, Florida 32907-2196
Office: 321-724-2240

BOARD OF TRUSTEES

SPECIAL MEETING MINUTES
February 21, 2018 – 10:00AM

Allison Kelly
Chairman

Keith Rittscher
1st Vice-Chairman

Bob Shortlidge
2nd Vice-Chairman

Ellouise Raffo
Secretary

Bob Eldridge
Trustee

Kendra Bender
Treasurer

Helen Ferguson
Assistant Treasurer

Donna Matton
Trustee

Barbara Whitneck
Trustee

District Manager

Ryan Poliakoff
District's Attorney

* To comment on an item, after you have been recognized by the Chair, please go to the microphone and clearly give your name and address for the record. You may speak for up to three minutes. Note: If formal action is to be taken on an item by the Board, public comment will be requested prior to the vote.

NOTE: MINUTES OF BOARD MEETINGS ARE PREPARED IN SUMMARY FORM ONLY. PER CHAPTER 286.0105 FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL A DECISION OF THE BOARD HE/SHE SHOULD ARRANGE FOR A VERBATIM RECORD OF THE PROCEEDINGS WHICH INCLUDES THE TESTIMONY IN EVIDENCE ON WHICH THE APPEAL IS MADE.

"A community intended and operated for persons 55 and older"



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1. **Meeting call to order by Allison Kelly**
2. **Invocation**
3. **Pledge of Allegiance**
4. **Roll Call by Allison Kelly**

Present were Allison Kelly, Chairman; Bob Shortlidge, 2nd Vice Chairman; Kendra Bender, Treasurer; Helen Ferguson, Assistant Treasurer; Donna Matton, Trustee; Ellousie Raffo, Trustee; Barbara Whitneck, Trustee; Absent were Keith Rittscher, Secretary; Bob Eldridge, Trustee

5. **Mrs. Donna Matton defense of Sunshine Law Violation and why she should not be removed from the Board of Trustees for charges of Malfeasance**

Allison Kelly; The reason for this meeting today is to determine if Donna Matton has broken the Sunshine Law. Mrs. Matton has the Floor for defense. **Donna Matton;** 4'11inches, 116 pounds and 75 years old. Like the lawyer said, this is the only thing they can charge. Donna Matton reads Allison's letter (attached). No, I'm sorry, not all snowbirds. I've been here 18 years, these are my friends. I am discussing a small group that is trying to take over, make the rules and get involved with the trustees and that is not right. I have been talking with a lawyer. We called up to Tallahassee. The Sunshine law has been broken. It has been broken by Allison Kelly. We don't know who this lawyer is. It was our first time and that's why we voted. This lawyer is for an HOA and this small group is an HOA. This Patti, has been at Allison's house. 7 different people saw it. If this isn't a setup, I don't what is. All I did was fight this little group and nobody else. **Allison Kelly;** I would like to know what proof you have because I haven't even talked to Patti on the phone. **Donna Matton;** 7 people have seen her. They have to stand up themselves. **Allison Kelly;** Stand up if you have seen Patti at my house. Unfortunately this is a mistruth. **Donna Matton;** I'm sorry, I have to leave. Two nurses are at my house to discuss what is going to be done with my husband. Before anything else in this park, my husband comes first. **Allison Kelly;** Let me refresh the memory of the email sent. I am going to read the definition of misfeasance from the attorney general "the willful inappropriate action or intentional incorrect action of advice." It is also stated we cannot discuss anything in between meetings that will come up at a meeting. Allison Kelly reads Donna's email (attached). Nobody wants to make anything besides a Special District. January 15th I put a note in Donna's file. Allison reads the note (attached). This is not a personal or vindictive thing.

Public Comment; **Ron Wilde, 1181 Lindsay Ct;** I've been here 5 or 6 years. I don't know Donna personally, I've never talked to her. I've been on a lot of Boards. There's 5 things that are important when taking your oath for a Board. 1. Be professional 2. Be accountable 3. Act with integrity because you're a Board member first 4. Be objective 5. Coaches they are either liked or disliked I have dealt with a lot of Board members that wanted me out of town. **Margaret Bowyer, 1102 Greenvview;** I've been in this park for 15 years. People lie, people don't lie. You guys suck. **Bruce Crabb, 440 Neighborly;** I've been in the park over 20 years. Years ago we had trustees fined by the state of Florida for violations of the Sunshine law. I have said constantly Boards need to stop emailing each other about things at the meeting. **Allison Kelly;** The board does not email each other about anything that will come up for a vote. **Elaine Wilde, 1181 Lindsey;** I don't know where to start. I'm going to start



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with the word lies. I don't know Donna very well, I don't listen to peoples judgements, I make up my own opinion. She's lying. I don't want to change from a special district to an HOA. I think there's only 1 person that has made their opinion on it very clear. I do not appreciate being lumped into a group. I am very upset about the things she's been saying on Facebook. If I don't like a person I don't associate with them. If you don't like snowbirds, you get 9 whole months without us around. There's harm here in the divisiveness and the lies. I am doing my part and I hope you are too. **Sal Cursi, 1107 Keystone;** Like Allison said, this is nothing personal. This lady Donna Matton is probably a good person. She served on the ACC Board for years. Ignorance to the law is not an excuse. We all pay the same amount of money. You all live here. **Becky Earnest, 205 Borel;** I was a recipient of a lot of Facebook posts when we were having issues with our previous manager. All the Facebook stuff is not good. I think we need someone up there that will represent all of us. **Penny Phaneuf, 452 Holiday Park;** I love this park I love the full timers and I love the snowbirds. It hurts my feelings when someone says this group is hateful. Let's all be together. **Karen Carrerio, 181 Holiday Park;** I really wouldn't want your job. I was on many Boards with people I was friends with. When you sit in that chair, we are not friends anymore, we are colleagues. We all love this park, you have to do what's right for this park. **Lori Bodoh, 1000 Little;** Social media can be your best friend and it can be your worst enemy. If you know it's detrimental, don't put it on there. **Jim Gahan, 464 Holiday Park** says that he's not a snowbird, he's a snowchicken.

Trustee comments; **Bob Shortlidge;** I don't like the word snowbird. They pay their taxes and they pay their dues just like us. Just because they live here part time doesn't mean they don't get a say here. I will make my definition of snowbird: homeowner. **Ellouise Raffo;** I agree with the lady that said she would not want this job. I was starting to see much division. Snowbirds vs. full time residents? I've never heard that in all my time here. They live here like I do. We are all here. You cannot divide us like that. We can't have it. **Helen Ferguson;** I feel the same way. I think Donna meant well, but I think she hurt a lot of people. We know what we can and can't do. We just love having you all here. **Barbara Whitneck;** I lived here 10 years then I left the park. I came back because I love this park and I feel safe. I agree with Bob and Ellouise, we can't have this. They are not snowbirds they are homeowners. **Kendra Bender;** I care for Donna. I believe Donna has a lack of filter. I don't believe the intent was there. Ron, I really liked what you stood up and said. Those comments were wrong. Now we hear that our lawyer did say she broke the Sunshine law. It saddens me, I love this park. The division has got to stop. **Allison Kelly;** Again, it's not personal. I committed to you that we would follow the rules and regulations. I have not had any contact with Patti. Those of you 8, you're chicken enough to spread rumors if you had any sense of pride you'd stand up and ask me. We will no longer use the word "snowbirds" in this park. We are one family and we will move this park forward. Let's heal and move on.

Trustee recommendation; **Allison Kelly** calls for a vote to remove Donna Matton from the Board of Trustees. **Ellouise Raffo;** Donna stood here and didn't even apologize. She hasn't changed the way she's going to deal with this. I have to revoke. **Bob Shortlidge;** I have to do what's best for the community and vote Donna off this Board. **Kendra Bender;** I agree with Bob. The community comes first. I vote to remove her. **Helen Ferguson;** I'm sure she didn't mean to hurt anyone but she can't be on this Board. **Barbara Whitneck;** I've got to vote to remove her she didn't leave us any choice. I don't think she's going to change. **Allison Kelly;** I have to vote to remove Donna.

Action: Motion to remove Donna Matton from the Board of Trustees made by Bob Shortlidge,



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Helen Ferguson seconds
Call for Vote; motion passed
Summary of final decision; Donna Matton is no longer on the Board of Trustees

6. **Adjournment; Kendra Bender makes a motion to adjourn, Keith Rittscher seconds. 10:42am**

Phil Matton <freedomdov@gmail.com>

2/7/2018 12:37 PM

Re: Trustee report

To ALLISON <akelly50@comcast.net>

allison for special meeting all these snow birds will be there to say terrible things .
this meeting is for us to do evaluation for traci. they are not to talke and you need to
say this to them because if you dont i will and get a vote from the trustees.

On Tue, Feb 6, 2018 at 7:46 AM, ALLISON <akelly50@comcast.net> wrote:

At the trustee meeting be prepared to discuss how many new owners or residents you have talked to these last
two weeks about rules , DOR ETC.
THANKS

Sent from XFINITY Connect App



February 12, 2018

Ms. Donna Matton
1st Vice Chairman
Port Malabar Holiday Park Mobile Home Park Recreation District

Re: Removal from the Board of Trustees for Malfeasance

Ms. Matton,
This is a formal written notice of a Special Trustee meeting to be held on February 21, 2018 at the Port Malabar Holiday Park Mobile Home Recreation District Center at 10AM, when you will have the opportunity to be heard on charges of Malfeasance, (Sunshine Law violations) per our By-Laws, Article 5 and why you should not be removed from a Trustee position on the Board of Trustees.

Regards,

Allison Kelly
Chairman, Board of Trustees
Port Malabar Holiday Park Mobile Home Park Recreation District
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February 12, 2018

To: Board of Trustee Members

**Bob Shortlidge
Kendra Bender
Helen Ferguson
Keith Rittscher
Bob Eldridge**

RE: Removal of Donna Matton from her Officer position as 1st chair

Please allow this letter to notify the Board of Trustees that Trustee Ms. Donna Matton has committed a violation of the Sunshine Laws. Please see the attached email.

Based on this email, as well as a review of additional public postings where she states her intention to silence commentary by a portion of our community (namely, snowbirds), and given that Ms. Matton does not represent the best interests of the entire community, I intend to call for a Trustee vote to remove Ms. Matton from her elected position as first chair of the Board of Trustees. If so removed, she will continue to serve as a Trustee at Large until a Special meeting can be held to determine whether she may be removed from the Board for misfeasance (namely, her violation of the Sunshine Laws). This letter is being sent for information and review only, and not for discussion, in advance of tonight's meeting of the Board of Trustees.

Regards,

**Allison Kelly, Chairman
Board of Trustees
Port Malabar Holiday Park Mobile Home Park Recreation district**

**DEPARTMENT OF ECONOMIC OPPORTUNITY
OVERVIEW OF FLORIDA'S GOVERNMENT IN THE SUNSHINE AND PUBLIC RECORDS LAWS**

By: Carly A. Hermanson, Deputy General Counsel
Attorney for the Task Force

Executive Summary:

As soon as you were appointed to the East Central Florida Corridor Task Force (the Task Force), you immediately became subject to Florida's Government in the Sunshine Law (Chapter 286, Florida Statutes), even before the Task Force's first meeting.

Violations of the Sunshine Law can result in removal from office, and criminal penalties as severe as 2nd degree misdemeanor charges (up to 60 days in jail and up to \$500 fine).

This outline presents an overview of the requirements of the Sunshine Law and the Florida Public Records Act as they relate to your position on the Task Force.

Basic Sunshine Law Requirements

- 1.** Meetings of public boards or commissions must be open to the public;
- 2.** Reasonable notice of these meetings must be given to the public; and
- 3.** Minutes of the meetings must be taken, promptly recorded, and open to public inspection.

Because the Sunshine Law defines 'meeting' broadly to include informal meetings and electronic communications regarding agenda items, outside of a formal Task Force meeting **you must not talk to, text, email, or otherwise communicate with any other member of the Task Force, personally or through any third party, about action that the Task Force may take or matters which will foreseeably come before it for action.**

Failure to comply with the Sunshine Law can **VOID** non-compliant actions of the Task Force.

Florida Government in the Sunshine Law:

The Law: Florida's Sunshine Law is found in Article I, Section 24 of the Florida Constitution, and Chapter 286, Florida Statutes.

Applicability: The law applies to ANY meeting of 2 or more members or members-elect of the Task Force who meet to discuss a matter which will foreseeably come before the Task Force for action. The law does not generally apply to purely fact-finding committees or to informal meetings of staff. The law does apply if a Task Force has delegated its decision-making authority to another group.

Example: A citizen planning committee appointed by a city council to assist in the revision of zoning ordinances was found to be subject to the Sunshine Law. The court concluded that the committee served as the alter ego of the council in making tentative decisions. *Town of Palm Beach v. Gradison*, 296 So. 2d 473 (Fla. 1974).

Example: Limits to the Fact-Finding Role: A district school board, as the ultimate decision making body, violated the Sunshine Law when the board, together with school officials and

Public Records Act:

Basics: In addition to the Sunshine Law, the Task Force is subject to the Florida Public Records Act (Chapter 119, Florida Statutes). This law requires that all documents and other materials **made or received** pursuant to Task Force business, must be retained and made open for public inspection unless specifically exempted from disclosure by statute.

Definition of Public Records: The Florida Supreme Court has interpreted the term “public records” to mean “all materials made or received in connection with official business **used to perpetuate, communicate, or formalize knowledge.**” Public records include more than just written documents. For the purposes of the Task Force, all documents, emails, sound recordings, PowerPoint presentations, and other records pertaining to Task Force business are public records.

Records Requests: Any citizen of Florida may make a public records request to the Task Force to view or obtain copies of public records. In order to ensure that we can respond to public records requests in a timely manner, all records generated by the Task Force must be retained and available to produce to records requestors.

Personal Emails and Text Messaging: If the content of an email pertains to Task Force business, that email is a public record, **even if the email is sent from your personal computer or smartphone.** Likewise, text messages discussing Task Force business are public records, regardless of whether the texts were sent from a state phone or your personal phone.

Legal Penalties: The Public Records Act contains **criminal penalties** for knowing violations of the Act: removal from office and a 1st degree misdemeanor punishable by up to one year in prison and/or a \$1000 fine. The Act also includes non-criminal sanctions of up to a \$500 fine for unknowing or non-willful violations.

members of the media, took a bus tour of neighborhoods affected by the board's proposed rezoning even though board members were separated from each other on the bus, did not express any opinions or their preference for any of the rezoning plans, and did not vote during the trip. See *Finch v. Seminole County School Board*, 995 So. 2d 1068 (Fla. 5th DCA 2008) (The ultimate decision-making body cannot evade the Sunshine Law by taking only fact-finding actions at a particular 'meeting.')

Meetings: The law defines a meeting as any gathering, whether formal or casual, of two or more members of the same Task Force to discuss some matter on which foreseeable action will be taken by the Task Force. One-way electronic or written communications between Task Force members are not considered a meeting, unless they result in comments or responses by other members. For example, circulating reports amongst members is permissible, so long as those reports do not solicit comments from the other members. However, if even just one member responds to such an email or communication, a violation of the Sunshine Law occurs. Therefore Task Force members should not email or otherwise circulate materials to each other.

Example: City commissioner may post comment regarding city business on blog or message board; however, subsequent postings by other commissioners on the subject of the initial posting could be construed as a response subject to the Sunshine Law. AGO 08-07.

Example: Members of a city board or commission may not engage on the city's Facebook page in an exchange or discussion of matters that foreseeably will come before the board or commission for official action. AGO 09-19

Additionally, a third-party liaison, or other means, cannot be used to evade the law to exchange information between Task Force members. If a Task Force member is unable to determine whether a meeting is subject to the Sunshine Law, he or she should either leave the meeting or ensure that the meeting complies with the Sunshine Law.

Example: City manager is not a member of the city council and thus may meet with individual council members; however, the manager may not act as a liaison for board members by circulating information and thoughts of individual council members. AGO 74-47

Social Meetings: Members of the Task Force may meet together socially, so long as they do not discuss any matter which will foreseeably come before the Task Force for action

Example: A luncheon meeting held by a private organization for members of a public board or commission at which there is no discussion among such officials on matters relating to public business would not be subject to the Sunshine Law merely because of the presence of two or more members of a covered board or commission. AGO 72-158

Accessibility: Meetings of the Task Force must be open to the public, accessible to individuals with physical handicaps, and held at locations that are easy to reach and do not discriminate on the basis of sex, age, race, creed, color, origin, or economic status, or otherwise unreasonably restrict public access. Minutes of the meetings must be taken, promptly recorded, and open to public inspection.

Criminal and Civil Penalties: Knowing violations of the Sunshine Law can result in 2nd degree misdemeanor charges, with penalties up to 60 days in jail and up to a \$500 fine. Violations of the Sunshine Law that are not "knowing" violations are non-criminal and are punishable by a fine of up to \$500. The public may bring an action to enforce the Sunshine Law. Circuit courts may issue injunctions to enforce the law. Additionally, failure to comply with the Sunshine Law can **VOID** non-compliant actions of the Task Force.