

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR SARASOTA COUNTY, FLORIDA

CITIZENS FOR SUNSHINE, INC., a  
Florida not-for-profit corporation, and  
ANTHONY LORENZO,

Plaintiffs,

v.

CASE NO.: 2008 CA 8108 SC

CITY OF VENICE, ED MARTIN, SUZANNE LANG,  
JOHN K. MOORE, JOHN SIMMONDS, NICHOLAS  
CARLUCCI, ROBERT BARTANOWICZ, SUSAN  
BALSINGER, PAUL HOLLOWELL,  
and FRED HAMMETT,

Defendants.

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**CORRECTED FOURTH AMENDED COMPLAINT  
FOR DECLARATORY RELIEF AND INJUNCTION**

Plaintiffs, CITIZENS FOR SUNSHINE, INC., and ANTHONY LORENZO, by and through undersigned counsel, sues defendants, CITY OF VENICE, ED MARTIN, SUZANNE LANG, JOHN K. MOORE, JOHN SIMMONDS, NICHOLAS CARLUCCI, ROBERT BARTANOWICZ, SUSAN BALSINGER, PAUL HOLLOWELL, and FRED HAMMETT.

**Introduction**

1. This is an action seeking declaratory, injunctive and other relief for violations of the Florida Government-In-The-Sunshine Law and the Public Records Act by members of the Venice City Council and the Airport Advisory Board. Plaintiffs contend that certain Defendants have held electronic meetings and used liaisons to discuss public business which has not been noticed to the public. Additionally, certain Defendants have failed to comply with the Public Records Act and have destroyed and failed in their duty to preserve public records in their possession.

### **Jurisdiction**

2. This Court has jurisdiction under Art. I, Sec. 24, of the Florida Constitution, and sections 119.07 and 286.011, Florida Statutes.

### **Parties**

3. CITIZENS FOR SUNSHINE, INC., is a Florida not-for-profit corporation which promotes awareness of and compliance with the Florida Government-in-the-Sunshine Law. ANTHONY LORENZO is the President of Citizens for Sunshine, Inc.

4. Defendant, CITY OF VENICE (City), is a Florida municipal corporation and a board within the meaning of Art. I, Sec. 24, Fla. Const., and section 286.011(1), Fla. Stat., and exercises final decision-making authority. The City has seven members of a council (City Council), which is the legislative body and is authorized to enact municipal laws for the City.

5. Defendant, ED MARTIN, is a council member of the City.

6. Defendant, SUZANNE LANG, is a council member of the City.

7. Defendant, JOHN K. MOORE, is a council member of the City.

8. Defendant, JOHN SIMMONDS, is a council member of the City and Ex-Officio member of the Airport Advisory Board.

9. Defendant, NICHOLAS CARLUCCI, is the former Chairperson of the Airport Advisory Board.

10. Defendant, ROBERT BARTANOWICZ, is a former member of the Airport Advisory Board.

11. Defendant, SUSAN BALSINGER, is a current member of the Airport Advisory Board.

12. Defendant PAUL HOLLOWELL is a current member of the Airport Advisory Board.

13. Defendant FRED HAMMETT is the former Mayor of the CITY.

14. For all purposes herein, Defendants are agents of the CITY.

**General Allegations Common to All Counts**

**A. Background**

15. Originally constructed in the early 1940's as a World War II training airfield, the Venice Municipal Airport (Airport) includes approximately 835 acres of City owned property about which 490 acres are dedicated to aviation use. One of the funding programs for the Airport is the Airport Improvement Program (AIP). The source for AIP funds is the Aviation Trust Fund (ATF). The ATF was established by the United States Congress in 1970 to provide funding for aviation capital investment programs. The AIP funds are discretionary and distributed each year by the Federal Aviation Administration (FAA) under authorization from Congress. Additional funding for Airport improvements is administered by the Florida Department of Transportation (FDOT).

16. The Airport Reference Code (ARC) is a coding system developed by the FAA to relate airport design criteria to the operational and physical characteristics of the airplane types that will operate at a particular airport. The ARC has two components relating to the airport design aircraft. The first component, depicted by a letter, is the aircraft approach category and relates to aircraft approach speed. The second component, depicted by a Roman numeral, is the airplane design group and relates to airplane wingspan.

17. Both runways at the Airport are presently classified by the FAA as C-II, which is Category C -- aircraft approach speed 121 knots or more but less than 141 knots, Group II:

wingspan of 49 feet up to but not including 79 feet. To maintain the C-II classification substantial improvements to the Airport are necessary.

18. In March 2005, the City began an update to the Airport's Master Plan ("MPU") as well as an Airport Layout Plan ("ALP"). The City hired a consultant, MEA Group, Inc., to assist in the MPU and ALP process. The MPU and ALP are submitted to the FAA and FDOT for approval and must reflect all future development for which federal/state funding is requested. Otherwise, any proposed development is ineligible for federal/state funding.

19. The Airport Advisory Board (AAB) was established to advise the Mayor and City Council on public issues pertaining to the airport.

20. In 2007, two years into the update of the MPU and ALP, the AAB began a series of meetings to finalize its recommendations to the City Council on the MPU and ALP.

21. At the same time, significant public interest in the City focused on the development of the Airport and the City's obligation to update the MPU and ALP.

22. In late May 2007, the AAB recommended that the Airport keep its C-II designation as part of the MPU and ALP process and that substantial improvements be made to Airport property.

23. On May 22, 2007, citizen Mike Rafferty wrote to the FAA urging rejection of the proposed MPU and ALP, specifically requesting consideration of a change from the C-II designation to B-II.

24. At an AAB meeting on May 30, 2007, substantial citizen opposition was expressed to the C-II classification. Defendants MARTIN and LANG, then private citizens, along with Jim Marble, Randall Greene, and Walter Hake, appeared at that meeting and expressed their opposition to the continued C-II classification.

25. In June 2007, the City Council requested that the AAB revisit and reconsider various options relating to development of the Airport.

26. In November 2007, the City held municipal elections for several City Council seats. Defendants MARTIN and LANG ran for election. Ernie Zavodnyik also ran for election to City Council in November 2007.

27. Defendants MARTIN, LANG and Mr. Zavodnyik ran on a platform which opposed expansion and development of the Airport as well as other similar issues. Together, Defendants MARTIN and LANG, along with Mr. Zavodnyik, sought to establish a unified voting bloc on the City Council.

28. Prior to the election in November 2007, Defendant LANG was the President of the Venice Neighborhoods Coalition, Inc., ("VNC"), an entity which opposed development and expansion of the Airport.

29. Prior to the election in November 2007, and continuing thereafter until this writing, Defendant MARTIN administered a private website and Internet web blog available at [www.insideveniceflorida.com](http://www.insideveniceflorida.com). Defendant MARTIN is a regular contributor to the website which serves as a public forum for citizen discussion and debate on issues likely to come before the City Council for official action. Defendant MARTIN used a non-city email account for the purpose of facilitating the website. The use of the website allows an electronic means of posting comments and other matters relating to the public business of the City.

30. In early November 2007, Defendants MARTIN and LANG and Mr. Zavodnyik were elected as members of the City Council.

31. Two of the issues which Defendants MARTIN and LANG desired to accomplish was: i) the development of an alternate ALP for submission to the FAA and FDOT; and ii) replacement of AAB board members with a long-term goal of dissolving the AAB.

32. In 2007 and 2008, the City Council had extensive discussion of matters relating to the Airport.

**B. Alternate FAA airport plan**

33. As early as November 19, 2007, four days after Defendants MARTIN, LANG, and Mr. Zavodnyik were sworn in, Defendant LANG had electronic communications with Jim Marble at [jimbythesea@yahoo.com](mailto:jimbythesea@yahoo.com), in which Mr. Marble was used as a liaison between Defendant LANG and MARTIN to discuss matters then pending before, or reasonably foreseeable to come before, the City Council, specifically, the submission of an alternate ALP to the FAA that would slow development of the Airport. Mr. Marble wrote to Defendant LANG indicating that he had met with Defendant MARTIN about such matters, stating:

Hi Sue,

My mail program would not allow all the GB's addresses at once, so I had to split it into 4 groups.....and the word processor made mild hash out of some text....but, otherwise life is GREAT tee hee. I may re-send the text.

For your info only -- Mike [Rafferty] is chomping at the bit to DO something. I told him I prefer to cool it to give everyone a chance to re-think the airport "next steps" -- he and Tom want to go ahead anyway. I really don't want to get too much "out in the open" right now. So, just thot [sic] I would let you know what The Marble is up to. I spoke with Ed [Martin] and we -- just two of us -- are going to get together for a couple of hours in probably early Dec. -- I plan to tell him everything I know -- give him copies of all documents -- offer a couple of "slow it down" solutions. I thought about talking with Marty, but don't think that is a good idea -- better that the Council "strategize" this problem..... Is that good with you ??? Jim

See Exhibit A, attached hereto.

34. On that same date, Defendant LANG wrote back to Mr. Marble and requested that he act as a liaison to Defendant MARTIN regarding the development of the alternate ALP, stating:

that's a good idea to meet with Ed; keep in mind that i can't talk to Ed about anything that Council may vote on.... so you have to convince Ed to convince Marty that instead of sending 50 questions to FAA that it would be better to send FAA a draft alternate plan such as the one you prepared and really lobby for it; if Venice is really behind it, FAA will only make them change what is absolutely necessary from their perspective.... maybe Ed should bring this up at Council meeting so we can vote to direct Marty and Fred to do this.... i have already suggested this before i was sworn in, to Ed, Ernie, John Moore, and just put it in a response to marty that was part of a whole list that he asked us to give him some direction on... so now is the time to get Ed to push for this...

See Exhibit B, attached hereto.

35. The very same day, Mr. Marble emailed Defendant MARTIN and specifically discussed an alternative plan. Defendant MARTIN then emailed Defendant MOORE stating that Mr. Marble had things to offer on airport issues. Defendant MARTIN forwarded a copy of the email he received from Mr. Marble to Defendant MOORE. See Exhibit C, attached hereto.

36. On December 27, 2007, Defendant LANG communicated via email with other members of the City Council, making reference to a specific issue relating to the Airport MPU and ALP which was anticipated to come before the City Council for future consideration. In that email, Defendant LANG announced how she would vote on that matter, stating:

Response to Council Member Simmonds: To my knowledge, no one is suggesting that Venice ban certain aircraft. What is being proposed is an alternate Airport Layout Plan that is more compatible with our community and which is more conducive to our airfield given the constraints we presently have surrounding

the airfield. It is very clear that the implication of a CII layout/classification is that two dozen homes would be in the Runway Protection Zone and that the FAA's ultimate resolution for this condition is to fund the acquisition and demolition of these homes. (MEA is currently facilitating just such a project on the East coast, I understand, for which they are being paid quite handsomely).

I, for one, will not vote for a Master Plan/layout plan with that implication and I do not believe it is necessary or in the interest of our community. All the aircraft coming into this airport would still be able to come in here with a BII classification/plan. As you know we have utilized a declared distance at the northeast end of runway 4-22 due to the bridge and this has not prevented any aircraft from using that runway. In fact, the City was proposing to greatly increase the declared distance at that end. The BII plan proposed by Mr. Rafferty and Mr. Marble keeps the runways at 5000 ft. with declared distances at each of the other ends, similar to the one we have now. All reports are that private jet aircraft are getting smaller and more fuel efficient, so they will not need longer take off or approach distances. Unless there is a hidden agenda to expand into commercial or quasi commercial/charter service at this airport, there is no reason for this airport to have a CII classification. Note that the previous Council and Mayor Hammett stated on the record that there were no such plans for expansion of this airport.

If the FAA can fund the re-construction of 13-31 with an incorrect layout plan, erroneous counts, and knowing full well there are 24 homes in a CII RPZone, they should have no problem funding re-construction of our noise abatement runway regardless of whether the MPU is completed or whether the layout is BII vs. CII. The Airport Advisory Board and Airport Manager should be spending their time procuring this grant and making sure that the airport is compatible with the surrounding community. If they are not able to do that, they need to step aside and let others take over who are capable.

See Exhibit D, attached hereto.

37. Between November 2007 and continuing until March 2008, in furtherance of the plan to develop an alternate ALP, an ad hoc committee consisting of Mr. Marble, Kit McKeon,



Mike Rafferty, Chuck Schmieler and others (ad hoc committee) met and discussed issues relating to development of an alternate ALP.

38. On January 8, 2008, the City Council discussed several matters relating to the Airport, including, but not limited to, the Airport MPU and ALP, the AAB, hiring a consultant to draft a plan to map the ALP plan within existing parameters, and citizen involvement in the planning process.

39. On January 14, 2008, in furtherance of the plan to develop an alternate ALP Defendant MARTIN attempted to use the alternate ALP developed by the ad hoc committee in a meeting with FAA officials in Washington D.C. in January 2008.

40. In March 2008, Defendant MARTIN briefed City Council on his intent to utilize the alternate ALP created by the ad hoc committee in meetings scheduled with FAA officials in Orlando, FL.

### **C. Reconstitution and Dissolution of AAB**

41. On November 24, 2007, in furtherance of the goal to reconstitute and dissolve the AAB, Defendant LANG sent an email to her successor at the VNC, Thomas Brenner, requesting that he act as a liaison to Defendant MOORE, stating:

Tom, don't forget for the Dec. meeting to remind members that January is the Annual meeting and Jan 2008 is election of Officers and Directors (3 year terms). You may need to draft some people into being on the Board, etc. Try to get Maxine to stay on and also Ted, Bill Newnam and Bill Steen. Margaret has stated that she won't run; she's having health problems and very old.. I'd like to see Mike Rigdon on the Board and Tim MacFerrin; also, Mike Rafferty; Bruce Lebedun; Randal Greene. *[I] agree with your approach on dissolving the AAB. If you can confirm Moore, we should have 4...*

See Exhibit E, attached hereto (emphasis added).

42. On December 1, 2007, Defendant LANG announced via email that she no longer desired to send or receive email relating to matters pending before the City Council, or foreseeable to come before City Council. Defendant LANG asked that such email be sent to her city email account, stating:

Dear Friends and Coalition Board Members:

Just a quick email to advise you that communications sent to me that are about a subject that is either on the City Council agenda or may in the foreseeable future come before Council, are subject to sunshine laws, freedom of information, etc. To avoid a problem with subjecting my personal email box ([suelang99@hotmail.com](mailto:suelang99@hotmail.com)) to public disclosure, please send any email which concerns or could conceivably concern a matter which is or might be on a City Council agenda to my city email address: [slang@ci.venice.fl.us](mailto:slang@ci.venice.fl.us) Keep in mind that everything sent to this box is open to the public and can be viewed by other elected and appointed officials. We are also not allowed to discard anything sent to us except incidental announcements, etc.

See Exhibit F, attached hereto.

43. The very next day, Defendant LANG engaged in a private "off the record" email discussion with Defendant MARTIN in furtherance of the plan to disband the AAB, and stated:

...the important thing is to replace Corlucci and Bartaniwicz in February, and *as soon as possible, disband and replace this Board.*

See Exhibit G, attached hereto (emphasis added).

44. On December 6, 2007, Defendant LANG continued to send and receive email communications marked as "Confidential" to various individuals in furtherance of the plan to submit an alternate ALP to the FAA and disband the AAB. Specifically, Defendant LANG emailed Kit McKeon at [mckeon628@verizon.net](mailto:mckeon628@verizon.net), stating:

Confidential: Kit, i recommend you put your name in for the Airport Advisory Bd in addition the Planning Commission. I have

encouraged Jim Marble and Mike Rafferty to submit also, but Mike is a little reluctant because he is typically away for several months in the summer. In the event Mike feels he can't do it, we need another person so that both Carlucci and Bartanowitz can be replaced when their terms come up in Feb. Of course, *our first preference is to disband the AABd, but that may take a while and if there are 3 members of the AABd that suggest disbandment and creation of something that is more akin to a citizens oversight board, that would also help the cause!*

See Exhibit H, attached hereto (emphasis added).

45. On that same date, Defendant LANG also wrote to Kit McKeon and stated:

Confidentially i think your chances of getting on Plan Com are very good as only 3 including yourself have applied for the 3 seats. I was thinking that in the event Mike didn't apply for AABd, maybe you could do both and help to get the airport classed as BII, etc. *then disband the AABd...*

See Exhibit I, attached hereto (emphasis added).

46. On February 7, 2008, in furtherance of the plan to replace AAB members and eventually disband the AAB, Defendant MARTIN announced his intentions to replace two AAB members. Defendant MARTIN also stated that abolishing the AAB was an option under consideration.

47. On February 12, 2008, in furtherance of the plan to replace members of the AAB, Defendant MARTIN recommended to the City Council that Jim Marble and Walter Hake be appointed to the AAB. The City Council voted 4-3 to approve the recommendations.

48. Immediately after the February 12<sup>th</sup> City Council meeting, Defendant MARTIN used one of his personal email accounts ([tiltingatwindmills@comcast.net](mailto:tiltingatwindmills@comcast.net)) to communicate with Defendant MOORE via his personal email account ([j.k.moore@comcast.net](mailto:j.k.moore@comcast.net)). The email stated:

John, I am pleased that we're on the same page on pursuing the airport 'on the grounds' and believe some new blood on the airport board may help. We shall see.

Do you think Dan Boone really cares about the board or was trying to flex his muscles? It is sad that John Simmonds, basically read the script prepared for him, including the mistake about substitution of Jim Marble for Bart, just as Boone had said.

I have not figured Vicki out yet, I though perhaps she might be emancipated, but perhaps she feels we are changing things more than she feels comfortable with, not just on this issue. Or maybe she wants CQG support if she runs again. I hope she will come our way on some issues.

If Bart had used his FAA knowledge to help draft an alternate layout plan, I would have almost certainly have kept him, but from observation and speaking with members, no one, including him, really came up with anything. If Marble, et. Al (sic) had not done the research themselves we would have nothing or have to pay a consultant to do it. Of course, the FAA may not agree with it but we can push pretty hard if we have a cross section of the aviation community supporting it, including try to elicit support from Sen Nelson and perhaps other delegation members.

See Exhibit J, attached hereto.

49. The following day, Defendant MOORE responded, and stated:

I have recorded your new email address...you still have four, I believe. Is this what I would call your personal email?

I have know (sic) Bart since I first ran for council. I consider him a friend. And, I would welcome his further involvement with the airport, etc. However, these appointments are the Mayor's prerogative. I have never voted against one in five years and wouldn't in this case, especially when you have nominated very qualified people because I believe our boards need new blood. We're fortunate to have so many capable people willing to work on the AAB. I don't want to comment on others motivations...I think it's clear without my 2 cents.

By the way, I thought you did an outstanding job of explaining your appointments in light of John S. sneak attack.

See Exhibit K, attached hereto.

50. On June 20, 2008, Defendant MARTIN sent an email to Defendant HOLLOWELL and members of the City Council stating:

I am wondering whether Council might legitimately question whether the City's interests or the interests of airport users, a small minority of the City's citizens, are the focus of the your and the Board majority's interest and responsibilities.

51. In late July 2008, in furtherance of the plan to disband the AAB, the City Council voted 5-2 to ask that all members of the AAB resign.

52. On August 11, 2008, in furtherance of the plan to disband the AAB, the City Council voted 4-3 to dissolve the AAB.

**D. Tramonto Park**

53. On November 28, 2007, Defendant LANG sent an email to private citizen Earl Quandt at [equandt@aol.com](mailto:equandt@aol.com) and Maxine Barritt at [maxiboss@aol.com](mailto:maxiboss@aol.com), a board member of the VNC. Defendant LANG asked the recipients not to forward or distribute the email, and directly encouraged the recipients to act as a liaison to other members of the City Council about a matter scheduled to come before the City Council on December 11, 2007, specifically, the development of Tramonto Park, stating:

Note: do not forward or distribute this email. Great letter Earl; thanks for birdlogging the bike connector. [W]e have to keep on them til it gets done. I spoke to Rosemary this morning and she will be calling you and Maxine about Tramonto park; [I] think we need several dozen people to write letters to the Mayor and Council and newspapers stating that residents only want one large pavilion, not 3, and, a small amphitheater, not a large professional style facility... [I] think these are the two main sticking points. Also, keep pushing for less impervious paving and more trees throughout the park. Make sure that people ask Lori to distribute to all Council Members. I need to be able to make the case that there are dozens

of residents who don't want 3 large pavilions or a large professional style band shell, etc. in order to counter the Chamber groupies who keep coming out and saying they want these things... Please call VNC members and your friends and ask them to write letters. **Also, it would be helpful if you and Max and Rosemary personally call Ernie, Ed Martin and John Moore to ask that they not approve 3 large pavilions or a large professional style performance facility. Thanks**

See Exhibit L, attached hereto (emphasis in original).

**E. RTR District & Land Development Code**

54. On November 28, 2007, Defendant MOORE used his private email account ([j.k.moore@comcast.net](mailto:j.k.moore@comcast.net)) to send an email to Defendant LANG's private email account ([suelang99@hotmail.com](mailto:suelang99@hotmail.com)). The email was a response to an earlier email dated the same date, which was a response to Defendant MOORE's original email dated November 28, 2007. The email exchange makes extensive reference to RTR zoning districts and other matters pending or reasonably foreseeable to come before the City Council. See Exhibit M, attached hereto. Prior to the email communication by Defendant MOORE to Defendant LANG, the public was not provided with notice that an electronic meeting or discussion of public business would occur, via email, on November 22, 2007.

**F. Tra Ponti**

55. On September 26, 2007, Defendant HAMMETT sent an email to other members of the City Council in which he made comments and suggestions and then solicited comments and suggestions from other City Council members about a matter pending before the City Council, specifically, the Tra Ponti workshops, a CMU development proposal. Defendant HAMMETT's comments included, but were not limited to, whether the project would be a hotel or condo, parking at the project, building height, and design theme.

56. On November 27, 2007, Defendant MOORE sent an email to the City Clerk with a five-page memorandum outlining his comments, questions and concerns to the Mayor and City Council regarding the pending Tra Ponti workshops. In the memorandum Defendant MOORE specifically commented on the project's characterization as a hotel condominium, parking, building height and density. The memorandum suggested issues for discussion during the scheduled workshops, recommended repealing the CMU Zoning Ordinance, outlined his reasons for repealing the Zoning Ordinance, and comments and responses on subject matters requiring City Council action.

**I. AAB & VASI**

57. The Venice Aviation Society, Inc. (VASI), is a non-profit Florida corporation established in 1991. VASI's Mission Statement is: 1) to Promote, support and encourage the continued use of the Venice Municipal Airport as a general aviation facility; 2) to educate concerned citizens as to the airport's importance to the public welfare; 3) to provide a forum whereby those concerned with utilization of the facility may voice their concerns; 4) to advise the appropriate authorities regarding safety, security, utilization and other concerns at the airport; 5) to provide a forum for the flying public regarding aviation matters; and 6) to support the city, county, state and federal authorities in carrying out their duties regarding aviation and the utilization of the Venice Municipal Airport in disaster, welfare and other public service.

58. From 2005 through 2007, Defendants HOLLOWELL, BARTANOWICZ and CARLUCCI served on the Board of Directors of VASI. From 2005 through 2008, Defendants HOLLOWELL and CARLUCCI served on the Board of Directors of VASI. During those periods of time VASI held regular meetings of its board at which HOLLOWELL, BARTANOWIC and CARLUCCI attended. Additionally, VASI board members, including

Defendants HOLLOWELL, BARTANOWICZ and CARLUCCI, routinely communicated via email about a wide range of topics related to the Airport.

59. During the above periods of time, Defendants HOLLOWELL, BARTANOWICZ and CARLUCCI also served on the AAB. Many of the issues which the AAB regularly considered and discussed were also regularly considered and discussed by the board of VASI.

60. Defendants HOLLOWELL, BARTANOWICZ and CARLUCCI held meetings and discussions in their capacity as board members of the AAB which occurred at VASI board meetings outside of publicly noticed meetings of the AAB. Additionally, Defendants HOLLOWELL, BARTANOWICZ and CARLUCCI engaged in electronic discussions and meetings outside of publicly noticed meetings of the AAB.

**J. AAB**

61. Defendant SIMMONDS is an Ex-Officio member of the AAB.

62. On November 24, 2007, Defendant SIMMONDS sent an email with a proposed letter attached to Kim Stephens, an AAB member, about matters pending or reasonably foreseeable to come before the AAB. Defendant SIMMONDS specifically requested that other AAB members make changes or suggestions to the letter. Stephens subsequently forwarded the email to Defendant BALSINGER and Jim Leis, also an AAB member.

63. On November 28, 2007, Defendant SIMMONDS sent an email to select members of the AAB in which he commented on matters that had occurred at a City Council meeting which was pending or reasonably foreseeable to come before the AAB. In the email Defendant SIMMONDS solicited comments from the AAB members, stating:

Last night during Council audience participation 3 guys claiming impressive credentials "brother in lawed" themselves, one behind the other' trying to down play Airport development. Their pitch



was to hold up the development plan and lower everything from projected growth through c-2 to v-2. They emphasized that the FAA will not tell a city what to do but, rather, it is up to the cities. As Dan Boon said they effectively parlayed 5 minute limitations into a 15 minute presentation. Brenner followed them with his trash. Sue Grinned a lot. I suspect it was her script. There was no one from "our" aviation community to take issue with them. We can expect more of this and we need some of our folks to counter their nonsense. Moore was impressed with their professed qualifications.

I need to back up my impressions with facts. 1st, question: isn't it so, that we are already contracted out to tenants like "Jet Center" past V2? If so We might have to buyout their contract for millions or face a nasty Law suit if we down graded to V2. Right ????. Maybe other tenants also? Who? Talk to me!!!

John

**K. May 2, 2008 Meeting**

64. On May 2, 2008, after City Hall was closed, Defendants LANG and MARTIN, along with liaison Mike Rafferty, conducted a secret meeting and discussion in Conference Room 106 about the airport. The meeting and discussion was observed by Council Member Rick Tacy. See Exhibit N, attached hereto. It is undisputed that such meeting was not noticed to the public.

**L. Public Records**

65. On May 9, 2008, the City Clerk reminded each member of the City Council that they were individually responsible for maintaining emails in accordance with state law. The City Clerk reminded the City Council members of the specific retention requirements imposed by law, that their emails were not independently backed up, and that they should not delete their emails without maintaining either an electronic or hard copy of same. See Exhibit O, attached hereto.

66. In May 20, 2008, Plaintiff LORENZO, via the undersigned, made a public records request to the City Clerk and City Council members for public records in their custody. See Exhibit P, attached hereto. The records request specifically directed both the City Clerk and City Council members to the statutory provisions set forth in section 119.07(1)(f) and (g), Fla. Stat., as to their statutory duty to not dispose of any records which were within the subject matter of the request, whether or not they contended the records were public record, absent a court order directing otherwise.

67. On May 22, 2008, in response to Plaintiffs public records request, Defendant MOORE authored a memo in which he acknowledged that several of the emails on his private email account "could be interpreted as a violation of the Florida Sunshine Law." See Exhibit Q, attached hereto. In that same memo, Defendant MOORE stated he had only five emails from his home computer which were responsive to the public records request dated May 20, 2008.

68. Defendant MARTIN is unable to produce some public records responsive to the record requests because those records were not saved in one or more of his private email accounts and is therefore unable to retrieve them.

69. Defendant SIMMONDS uses a private email account of [aloha1329@comcast.net](mailto:aloha1329@comcast.net). Notwithstanding the well-established duties of a records custodian under the Public Records Law as well as City policy, SIMMONDS intentionally deleted public records from his computer. On May 29, 2008, Defendant SIMMONDS wrote a letter to the City Clerk in which he stated, "I have deleted almost all of my e-mails from my personal computer....I had forgotten that I have to keep e-mails generated at home if they cited city business." See Exhibit R, attached hereto.

70. On June 12, 2008, Plaintiffs made another public records request to all current and former members of the Airport Advisory Board for emails during the period from July 1, 2005, through the date of receipt of the request. See Exhibit S, attached hereto.

71. On May 29, Defendant BARTANOWICZ stated in writing that he could not produce public records for inspection because he routinely deletes his emails. See Exhibit T, attached hereto.

72. On May 31, 2008, Defendant CARLUCCI stated in writing that he could not produce public records for inspection because he “routinely delete[s]” his emails. See Exhibit U, attached hereto.

73. Pursuant to section 119.021(4)(a), Fla. Stat., Defendants CARLUCCI and BARTANOWICZ, had a duty to deliver, at the expiration of their term of office, to their successor or, if there be none, to the records and information management program of the Division of Library and Information Services of the Department of State, all public records kept or received by them in the transaction of official business.

74. On May 27, 2008, Defendant BALSINGER stated in writing that she could not produce public records for inspection because emails could not be “forwarded or restored due to the age.” See Exhibit V, attached hereto. Defendant BALSINGER made a subsequent production of emails that were responsive to the public records request. However, Defendant BALSINGER is unable to provide public records for a portion of the time period due to her inability to recover emails from her computer.

75. Plaintiffs had to file an action for mandamus to compel the inspection of public records in the possession of Defendants LANG and MOORE which were responsive to records request dated May 20, 2008.

76. Plaintiffs have retained the undersigned to bring this action and has agreed to pay a reasonable attorneys fee for same.

77. Plaintiffs have incurred costs for bringing this action.

**COUNT I (Alternate ALP)**

78. Plaintiffs reallege paragraphs 15 through 40 and 48 as if fully set forth herein.

79. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes, against the CITY, MARTIN, and LANG.

80. The City Council is required by statute to provide “reasonable notice of all ... meetings.” Section 286.011(1), Fla. Stat.

81. The City Council did not provide notice to the public of the electronic meetings and discussions between Defendants MARTIN, LANG and others used as liaisons.

82. Plaintiffs and the public have been irreparably harmed by the failure of the City Council and Defendants to provide notice of its electronic meetings and discussions.

83. By failing to provide the public with notice, the action of the City Council and the Defendants taken outside of the Sunshine to develop an alternate ALP for submission to the FAA and FDOT renders that action void *ab initio*.

84. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that the CITY, MARTIN and LANG failed to provide notice to the public of the electronic meetings and discussions relating to the development of an alternate ALP for submission to the FAA and FDOT.

B. Enjoining Defendants, its agents, and all other persons acting in concert who are responsible for carrying out the City Council's actions, from implementing any action of the City Council as a result of the electronic meetings and discussions that occurred relating to the development of an alternate ALP for submission to the FAA and FDOT.

C. Enjoining the use of electronic communications by members of the City Council to discuss matters pending or reasonably foreseeable to come before the City Council;

D. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

E. Any other relief the Court deems just and proper.

**COUNT II (Replacement and Disbandment of AAB)**

86. Plaintiffs reallege paragraphs 15 through 32 and 41 through 52 as if fully set forth herein.

87. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes, against the CITY, MARTIN, LANG and MOORE.

88. The City Council is required by statute to provide "reasonable notice of all ... meetings." Section 286.011(1), Fla. Stat.

89. The City Council did not provide notice to the public of the electronic meetings and discussions between Defendants MARTIN, LANG, MOORE and others used as liaisons.

90. Plaintiffs and the public have been irreparably harmed by the failure of the City Council and Defendants to provide notice of its electronic meetings and discussions.

91. By failing to provide the public with notice of its electronic meetings, the action of the City Council and the Defendants taken outside of the Sunshine to replace AAB board members and eventually disband the AAB renders that action void *ab initio*.

92. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that the CITY, MARTIN, LANG and MOORE failed to provide notice to the public of the electronic meetings and discussions relating to replacement of AAB board members and eventually disbandment of the AAB.

B. Enjoining Defendants, its agents, and all other persons acting in concert who are responsible for carrying out the City Council's actions, from implementing any action of the City Council as a result of the electronic meetings and discussions that occurred relating to the replacement of AAB board members and eventually disbandment of the AAB.

C. Enjoining the use of electronic communications by members of the City Council to discuss matters pending or reasonably foreseeable to come before the City Council;

D. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

E. Any other relief the Court deems just and proper.

### **COUNT III (LIAISONS)**

93. Plaintiffs reallege paragraphs 15 through 40 and paragraph 53 as if fully set forth herein.

94. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes against the CITY and Defendant LANG.

95. Section 286.011, Fla. Stat., prohibits the use of liaisons to discuss those matters which are pending or reasonably foreseeable to come before a board or council.

96. Plaintiffs, as well as the public, have been irreparably harmed by Defendant LANG's use of liaisons to communicate with other members of the City Council on matters pending or reasonably foreseeable to come before the City Council.

97. By using liaisons to communicate with other members of the City Council on matters pending or reasonably foreseeable to come before the City Council, the action of the City Council, via the liaisons, relating to the development of an alternate ALP, the replacement of AAB members, disbandment of the AAB, and Tramonto Park renders that action void *ab initio*.

98. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that Defendant LANG's use of liaisons to communicate with other members of the City Council on matters pending or reasonably foreseeable to come before the Council was unlawful;

B. Enjoining Defendants, its agents, and all other persons acting in concert who are responsible for carrying out the City Council's actions, from implementing any action of the City Council and the Defendants as a result of Defendant LANG's use of liaisons;

C. Enjoining the use of electronic communications via liaisons by members of the City Council to discuss matters pending or reasonably foreseeable to come before the City Council;

D. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

E. Any other relief the Court deems just and proper.

#### **COUNT IV (Ad Hoc Committee)**

99. Plaintiffs reallege paragraphs 15 through 40 as if fully set forth herein.

100. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes, against the CITY.

101. The CITY is required by statute to provide "reasonable notice of all ... meetings." Section 286.011(1), Fla. Stat.

102. The CITY did not provide notice to the public of the meetings, electronic and otherwise, and discussions between members of an ad hoc committee established to develop an alternate ALP.

103. Plaintiffs and the public have been irreparably harmed by the failure of the CITY to provide notice of such meetings and discussions.

104. By failing to provide the public with notice, the actions of the City Council in relying on an alternate ALP for submission to the FAA and FDOT renders that action void *ab initio*.

105. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that the CITY failed to provide notice to the public of the meetings and discussions of the ad hoc committee responsible for developing an alternate ALP for submission to the FAA and FDOT.

B. Enjoining the CITY, its agents, and all other persons acting in concert who are responsible for carrying out the City Council's actions, from implementing any action of the City Council as a result of the meetings and discussions of the ad hoc committee.

C. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

D. Any other relief the Court deems just and proper.



## COUNT V (RTR ZONING DISTRICTS)

106. Plaintiffs reallege paragraphs 15 through 32 and 54 as if fully set forth herein.

107. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes, against the CITY, LANG and MOORE.

108. The City Council is required by statute to provide "reasonable notice of all ... meetings." Section 286.011(1), Fla. Stat.

109. The City Council did not provide notice to the public of the electronic meetings and discussions between Defendants LANG and MOORE relating to RTR zoning districts.

110. Plaintiffs and the public have been irreparably harmed by the failure of the City Council and Defendants to provide notice of its electronic meetings and discussions.

111. By failing to provide the public with notice of its electronic meetings, the action of the City Council relating to RTR zoning districts renders that action void *ab initio*.

112. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that the CITY, LANG and MOORE failed to provide notice to the public of the electronic meetings and discussions relating to RTR zoning districts.

B. Enjoining Defendants, its agents, and all other persons acting in concert who are responsible for carrying out the City Council's actions, from implementing any action of the City Council as a result of the electronic meetings and discussions that occurred relating to RTR zoning districts.

C. Enjoining the use of electronic communications by members of the City Council to discuss matters pending or reasonably foreseeable to come before the City Council;

- D. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and
- E. Any other relief the Court deems just and proper.

**COUNT VI (TRA PONTI)**

113. Plaintiffs reallege paragraphs 15 through 32 and 55 and 56 as if fully set forth herein.

114. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes, against the CITY, HAMMETT and MOORE.

115. The City Council is required by statute to provide "reasonable notice of all ... meetings." Section 286.011(1), Fla. Stat.

116. The City Council did not provide notice to the public of the electronic meetings and discussions between Defendants HAMMETT and MOORE and other members of the City Council relating to the Tra Ponti workshops.

117. Plaintiffs and the public have been irreparably harmed by the failure of the City Council and Defendants to provide notice of its electronic meetings and discussions.

118. By failing to provide the public with notice of its electronic meetings, the action of the City Council relating to the Tra Ponti workshops is void *ab initio*.

119. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that the CITY, HAMMETT and MOORE failed to provide notice to the public of the electronic meetings and discussions relating to the Tra Ponti workshops.

B. Enjoining Defendants, its agents, and all other persons acting in concert who are responsible for carrying out the City Council's actions, from implementing any action of the City

Council as a result of the electronic meetings and discussions that occurred relating to the Tra Ponti workshops.

- C. Enjoining the use of electronic communications by members of the City Council to discuss matters pending or reasonably foreseeable to come before the City Council;
- D. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and
- E. Any other relief the Court deems just and proper.

**COUNT VII (AAB & VASI)**

120. Plaintiffs reallege paragraphs 15 through 32 and 57 through 60 as if fully set forth herein.

121. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes, against the CITY, CARLUCCI, BARTANOWICZ and HOLLOWELL.

122. The AAB is required by statute to provide "reasonable notice of all ... meetings." Section 286.011(1), Fla. Stat.

123. The AAB did not provide notice to the public of the electronic meetings and discussions between Defendants CARLUCCI, BARTANOWICZ and HOLLOWELL relating to the VASI board meetings.

124. Plaintiffs and the public have been irreparably harmed by the failure of the AAB to provide notice of its meetings and discussions.

125. By failing to provide the public with notice of its meetings, the actions of the AAB relating to those meetings are void *ab initio*.

126. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that the CITY, the AAB, CARLUCCI, BARTANOWICZ and HOLLOWELL failed to provide notice to the public of the meetings and discussions relating to the VASI board meetings.

B. Enjoining Defendants, its agents, and all other persons acting in concert who are responsible for carrying out the AAB's recommendations and actions, from implementing any action of the AAB as a result of the electronic meetings and discussions that occurred relating to the VASI board meetings.

C. Enjoining the use of electronic communications by members of the City Council to discuss matters pending or reasonably foreseeable to come before the City Council;

D. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

E. Any other relief the Court deems just and proper.

#### **COUNT VIII (AAB)**

127. Plaintiffs reallege paragraphs 15 through 32 and 61 through 63 as if fully set forth herein.

128. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes, against the CITY and SIMMONDS.

129. The City Council is required by statute to provide "reasonable notice of all ... meetings." Section 286.011(1), Fla. Stat.

130. The City Council did not provide notice to the public of the electronic meetings and discussions between Defendant SIMMONDS and other members of the AAB relating to the November 24<sup>th</sup> and 28<sup>th</sup> email comments and discussions.

131. Plaintiffs and the public have been irreparably harmed by the failure of the City Council and Defendants to provide notice of its electronic meetings and discussions.

132. By failing to provide the public with notice of its electronic meetings, the actions of the AAB relating to the November 24<sup>th</sup> and 28<sup>th</sup> email comments and discussions are void *ab initio*.

133. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that the CITY and SIMMONDS failed to provide notice to the public of the electronic meetings and discussions relating to the November 23<sup>th</sup> and 28<sup>th</sup> email comments and discussions.

B. Enjoining Defendants, its agents, and all other persons acting in concert who are responsible for carrying out the City Council's actions, from implementing any action of the City Council as a result of the electronic meetings and discussions that occurred relating to the November 23<sup>th</sup> and 28<sup>th</sup> email comments and discussions.

C. Enjoining the use of electronic communications by members of the City Council to discuss matters pending or reasonably foreseeable to come before the City Council;

D. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

E. Any other relief the Court deems just and proper.

**COUNT IX (May 2, 2008 Meeting)**

134. Plaintiffs reallege paragraphs 15 through 32 and 64 as if fully set forth herein.

135. This is an action seeking declaratory and injunctive relief under chapter 286, Florida Statutes, against the CITY, MARTIN and LANG.

136. The City Council is required by statute to provide "reasonable notice of all ... meetings." Section 286.011(1), Fla. Stat.

137. The City Council did not provide notice to the public of the after-hours meeting and discussion between Defendants MARTIN, LANG and Mike Rafferty that occurred on May 2, 2008.

140. Plaintiffs and the public have been irreparably harmed by the failure of the City Council and Defendants to provide notice of such a meeting.

141. By failing to provide the public with notice of its meeting and discussion, the actions of the City Council relating to the May 2<sup>nd</sup> meeting is void *ab initio*.

142. Plaintiffs are entitled to an award of attorneys fees and costs for prosecuting this action.

WHEREFORE, Plaintiffs pray for the following relief:

A. A declaration that the CITY, MARTIN and LANG failed to provide notice to the public of the meeting and discussion held on May 2, 2008.

B. Enjoining Defendants, its agents, and all other persons acting in concert who are responsible for carrying out the City Council's actions, from implementing any action of the City Council as a result of the meeting and discussion that occurred on May 2, 2008.

C. Awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

D. Any other relief the Court deems just and proper.

**COUNT X (Public Records)**

143. Plaintiffs reallege paragraphs 1 through 32 and 65 through 77 as if fully set forth herein.

144. This is an action seeking mandamus relief under chapter 119, Florida Statutes and Rule 1.630, Fla. R. Civ. P., against the CITY, MARTIN, SIMMONDS and BALSINGER.

145. Plaintiffs, through undersigned counsel, made a request to inspect public records of the Defendants.

146. Defendants MARTIN, SIMMONDS and BALSINGER had a clear statutory duty to permit inspection and copying of public records.

147. Defendant MARTIN has failed to fully comply with the request to permit inspection and copying of public records and has failed to maintain same as required by law.

148. Defendant SIMMONDS has failed to comply with the request to permit inspection and copying of public records and has knowingly and intentionally deleted same.

149. Defendant BALSINGER has failed to fully comply with the request to permit inspection and copying of public records.

150. The requested records are not subject to any statutory exemption and Defendants MARTIN, SIMMONDS and BALSINGER have failed to assert that such an exemption exists.

WHEREFORE, Plaintiffs prays for the following relief:

- A. A declaration that Defendants MARTIN, SIMMONDS and BALSINGER failed to comply with their statutory duty to permit the inspection and copying of public records;
- B. An Order directing Defendants MARTIN, SIMMONDS and BALSINGER to make the requested records available for inspection by any and all means necessary, including the use of a computer forensic technician for any records which have been deleted or are not recoverable by normal methods;
- C. An Order directing the City Clerk to take possession of all public records and any electronic equipment that contains public records;
- D. An Order awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

E. Any other relief the Court deems just and proper.

**COUNT XI (Attorneys Fees - Public Records)**

151. Plaintiffs reallege paragraphs 1 through 32 and 65 through 77 as if fully set forth herein.

152. This is an action seeking attorneys fees under chapter 119.12, Florida Statutes, against the CITY.

153. Prior to the filing of this action, Defendant LANG failed to comply with the request to permit inspection and copying of public records.

154. Prior to the filing of this action, Defendant MOORE failed to comply with the request to permit inspection and copying of public records, in that he provided only five emails in response to the public records request despite the fact that other emails responsive to that request existed as verified by his subsequent production of numerous emails.

155. The refusal to provide the requested records was unlawful.

WHEREFORE, Plaintiffs prays for the following relief:

A. A declaration that the CITY failed to comply with its statutory duty to permit the inspection and copying of public records;

B. An Order awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

C. Any other relief the Court deems just and proper.

**COUNT XII (Public Records)**

156. Plaintiffs reallege paragraphs 1 through 32 and 65 through 77 as if fully set forth herein.



157. This is an action for declaratory and other relief against the CITY, CARLUCCI and BARTANOWICZ.

158. Plaintiffs, through undersigned counsel, made a request to inspect public records on June 12, 2008.

159. Defendants have a clear statutory duty to permit inspection and copying of public records.

160. Defendants failed to comply with the request to permit inspection and copying of public records in the custody of CARLUCCI and BARTANOWICZ.

161. The requested records are not subject to any statutory exemption and Defendants have not asserted that such an exemption exists.

WHEREFORE, Plaintiffs prays for the following relief:

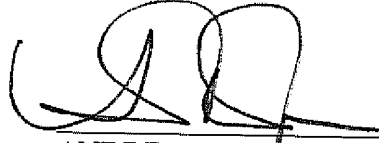
- A. A declaration that the CITY, CARLUCCI and BARTANOWICZ failed to comply with their statutory duty to permit the inspection and copying of public records, or alternatively, their duty to deliver, at the expiration of their term of office, to their successor or, if there be none, to the records and information management program of the Division of Library and Information Services of the Department of State, all public records kept or received by them in the transaction of official business;
- B. An Order directing the CITY, CARLUCCI and BARTANOWICZ to make the requested records available for inspection by any and all means necessary, including the use of a computer forensic technician for any records which have been deleted;
- C. An Order directing the City Clerk to take possession of all public records and any electronic equipment that may contain public records;

D. An Order awarding attorneys fees and costs to Plaintiffs for prosecuting this action; and

E. Any other relief the Court deems just and proper.

DATED: October 8, 2008

Respectfully submitted,



ANDREA FLYNN MOGENSEN, Esquire  
The Law Office of Andrea Flynn Mogensen, P.A.  
200 South Washington Boulevard, Suite 5  
Sarasota FL 34236  
Telephone: 941.955.1066  
Fax: 941.955.1008  
Florida Bar No. 0549681  
[Andrea@SarasotaCriminalLawyer.com](mailto:Andrea@SarasotaCriminalLawyer.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic and Regular U.S. Mail on October 8, 2008, to: DALE SCOTT, Bell, Roper & Kohlmyer, P.A., 2707 E. Jefferson Street, Orlando, FL 32803; ROBERT ANDERSON, Hall & Anderson, 1314 E. Venice Ave., Ste E, Venice, Florida 34285; A. LAMAR MATTHEWS, 1777 Main St Ste 500, Sarasota, Florida 34236-5841; and DAN BOONE, 1001 Avenida Del Circo, Venice, FL 34285.



ANDREA FLYNN MOGENSEN, Esquire

From: suelang99@hotmail.com

To: mckeon628@verizon.net

Subject: RE: Point Paper

Date: Thu, 6 Dec 2007 12:30:34 -0500

Confidentially i think your chances of getting on Plan Com are very good as only 3 including yourself have applied for the 3 seats. I was thinking that in the event Mike didn't apply for AABd, maybe you could do both and help to get the airport classed as BII, etc. then disband the AABd...

> Date: Thu, 6 Dec 2007 11:16:04 -0600

> From: mckeon628@verizon.net

> Subject: Re: RE: Point Paper

> To: suelang99@hotmail.com

>

> Sue: I am up in DC and it snowed - bad news bears! I will be back home Saturday early afternoon. As you and I discussed, I have submitted already for the Planning Commission but would be willing to serve in which ever area provide us the best bets on moving forward. I think Ed still favors me for Planning vs Airport.

>

> Jim & Mike have gotten good info this week from the previous airport consultants - I assume you have heard of that. I can talk if you want to - today or over the weekend.

>

> Kit

## Exhibit A

From: suelang99@hotmail.com  
To: jimbythesea@yahoo.com  
Subject: RE: ho ho  
Date: Mon, 19 Nov 2007 15:00:27 -0500

that's a good idea to meet with Ed; keep in mind that i can't talk to Ed about anything that Council may vote on.... so you have to convince Ed to convince Marty that instead of sending 50 questions to FAA that it would be better to send FAA a draft alternate plan such as the one you prepared and really lobby for it; if Venice is really behind it, FAA will only make them change what is absolutely necessary from their perspective.... maybe Ed should bring this up at Council meeting so we can vote to direct Marty and Fred to do this.... i have already suggested this before i was sworn in, to Ed, Ernie, John Moore, and just put it in a response to marty that was part of a whole list that he asked us to give him some direction on... so now is the time to get Ed to push for this...

Date: Mon, 19 Nov 2007 09:44:27 -0800  
From: jimbythesea@yahoo.com  
Subject: ho ho  
To: suelang99@hotmail.com

Hi Sue,

My mail program would not allow all the GB's addresses at once, so I had to split it into 4 groups.....and the word processor made mild hash out of some text....but, otherwise life is GREAT tee hee. I may re-send the text.

For your info only -- Mike is chomping at the bit to DO something. I told him I prefer to cool it to give everyone a chance to re-think the airport "next steps" -- he and Tom want to go ahead anyway. I really don't want to get too much "out in the open" right now.

So, just that I would let you know what The Marble is up to. I spoke with Ed and we -- just two of us -- are going to get together for a couple of hours in probably early Dec. -- I plan to tell him everything I know -- give him copies of all documents -- offer a couple of "slow it down" solutions. I thought about talking with Marty, but don't think that is a good idea -- better that the Council "strategize" this problem.....

Is that good with you ???

Jim

## Exhibit B

From: John Moore <j.k.moore@comcast.net>  
To: tiltingatwindmills@comcast.net  
Cc:  
Bcc:  
Subject: Re: Jim Marble, fyi  
Date: 11/22/2007 3:06:52 PM

Hello Mayor,

That has a nice ring to it. Thanks for sending me Jim's email. I'm a little behind in my email because I've had some problems connecting to the internet the past few days. I really don't know Jim personally myself, but I have met with him on a couple of occasions this past year about the Airport Layout Plan Protection Zones and he has met with Marty on the subject several times as well.

Have a great Thanksgiving

John

----- Original Message -----

From: tiltingatwindmills@comcast.net  
To: j.k.moore@comcast.net  
Sent: Tuesday, November 20, 2007 9:37 PM  
Subject: FW: Jim Marble, fyi

----- Forwarded Message: -----

From: Jim Marble jimbythesea@yahoo.com

John, I don't know if you know Jim Marble, but he is a thoughtful fellow, as I determine from his emails. I have met him and we have mutual friends, but I do not know him personally at this point. I think he may have some things to offer on airport issues, so thought I would send this along.

Best, Ed

: Mon, 19 Nov 2007 18:05:30 +0000

-----  
Dear Golden Beach Associates Member,

I am Jim Marble, candidate for GBAI Vice-President. I never thought I would do this, but I now believe it is important that I do.

Plain and simple, my pledge to you is ?Do my best to maintain and enhance the life we enjoy at Golden Beach. ?

But there is a lot more at the moment than my asking for your vote.

## Exhibit C

Page 1

We need to be more aware of and more involved in actions that have the potential to truly alter our ?paradise.? There are times when it really matters to ?stand up.?

Anonymity wears well. Go to school, work, retire, move and enter a ?new life? where you mow your lawn and play some golf. Golfers don?t ask ?what you did,? only ?what?s your problem? when you miss putts.

--- Education & Prior Experience ---

History ? -- born and lived in Washington state for 60 or so years. BA, MA, PhD in English from Univ. of Wash. Taught at several colleges, then was one of four hired to start a new community college. Became Dean, hired everyone and even picked out the furniture.

After four years went to a larger college (15,000 students) and was Dean for R&D, Budget, Planning and Info Systems. Took a year off and traveled around the world. Retired early. Learned computer programming, started a nationwide educational software business. Got obsolete (over the age of 16) and started a toy business. Chose not to learn the secrets of Asian importing. Retired final time.

While at the colleges I conducted community workshops and management seminars. Directed the planning that involved the entire community of approx. 100,000 residents. Planning ?starts? with the people. It has been curious to me that many Venice city plans are ?done? before they are presented ?for your comment.? Expedient unless things go wrong.< BR> Moved to San Juan Island Wash. where Pam and I built a house -- did it all except foundation -- moved to New Hampshire and build another house (except pouring the basement). Moved to Golden Beach nine years ago. Mowed the lawn. Played golf. Smiled.

While on San Juan Island I was President of the

homeowners assn. for  
the five years we lived there. I was also on the GBAI  
Board for a year.

--- Local Involvement ---

No matter how much you covet being ?laid back? there  
often comes a  
time to become involved. ?'Twas the Airport Plan what  
bit me.?

Everyone living at Golden Beach and its surrounds should  
tune in on what  
was/is being planned for the airport. I simply  
overheard a conversation  
about a change to the golf course and then about a  
Marriott offer (since  
withdrawn) to build a golf resort.

A friend told me the airport had a plan to expand and  
because I did not  
know what that meant, I attended a MP (master plan)  
presentation at  
City Hall, then went to the archive and read the 1975,  
1986 and 2000  
plans. Some curiosities there led me to search the FAA  
web site and  
read master plans for airports all over the country. I  
e-mailed some  
?involved citizens? who were having their local troubles  
with airport  
planning....finally, I spoke up at meetings and ?drew  
up? some questions  
and alternatives for the City and Council to see.

I have proposed a plan for the airport to remain within  
its present  
?footprint?; where the airport and its neighbors -  
residences, beaches,  
golf course - have co-existed for about 50 years.

I am a member of the Venice Neighborhood Coalition  
airport committee.  
Some of the airport issues reach beyond Golden Beach --  
but should  
not be overlooked. Community involvement is IMPORTANT  
now, so I am  
involved. But I am NOT suggesting the GBAI Board take  
any ?action? --  
what is needed is a ?wary eye ? and vigilance.

--- Looking Forward ---

An upcoming airport issue will be the ?planned? 2008  
noise study.  
We need to make sure it is conducted in accord with FAA

airport planning

guidelines which specify several citizen committees and a survey of ALL

airport proximity residents. Such a study should include flight patterns.

We would do well to give our support to the Venice Pilots Assn. ?fly

friendly? program -- before the noise study is begun.

There are also certain to be some growth, comprehensive plan (village), continued short-term-rental and other issues that might impact

Golden Beach. The GBAI Board has developed positions and priorities

on several issues. Next there needs to be on-going program, perhaps

with some ?issue investigation? committees.

My planning background reminds me that what ?I think? is not as

important as what ?you think? -- thus it is somewhat difficult to

identify issues that most concern you. The GBAI Board might well

undertake a simple survey to get some sense of direction and ?listen?

to the GB heartbeat. The Board should serve the people.

I will fully support and will assist with the social and civic activities as

expressed in the GBAI Charter.

Thank you for listening.....each vote for Jim Marble is appreciated.

..... Jim

---

Be a better pen pal. Text or chat with friends inside Yahoo! Mail. See how.  
<[http://us.rd.yahoo.com/evt=51732/\\*http://overview.mail.yahoo.com/](http://us.rd.yahoo.com/evt=51732/*http://overview.mail.yahoo.com/)>



**From:** Sue Lang  
**To:** ljfr@aol.com, Ed Martin, Ernie Zavodnyik, John Simmonds, Lori Stelzer, Rick T...  
**CC:** mblack@ci.venice.fl.us, Fwatts@ci.venice.fl.us  
**Date:** 12/27/2007 11:58 AM  
**Subject:** Re: Venice Airport Issue 10

Response to Council Member Simmonds: To my knowledge, no one is suggesting that Venice ban certain aircraft. What is being proposed is an alternate Airport Layout Plan that is more compatible with our community and which is more conducive to our airfield given the constraints we presently have surrounding the airfield. It is very clear that the implication of a CII layout/classification is that two dozen homes would be in the Runway Protection Zone and that the FAA's ultimate resolution for this condition is to fund the acquisition and demolition of these homes. (MEA is currently facilitating just such a project on the East coast, I understand, for which they are being paid quite handsomely).

I, for one, will not vote for a Master Plan/layout plan with that implication and I do not believe it is necessary or in the interest of our community. All the aircraft presently coming into this airport would still be able to come in here with a BII classification/plan. As you know we have utilized a declared distance at the northeast end of runway 4-22 due to the bridge and this has not prevented any aircraft from using that runway. In fact, the City was proposing to greatly increase the declared distance at that end. The BII plan proposed by Mr. Rafferty and Mr. Marble keeps the runways at 5000 ft. with declared distances at each of the other ends, similar to the one we have now. All reports are that private jet aircraft are getting smaller and more fuel efficient, so they will not need longer take off or approach distances. Unless there is a hidden agenda to expand into commercial or quasi commercial/charter service at this airport, there is no reason for this airport to have a CII classification. Note that the previous Council and Mayor Hammett stated on the record that there were no such plans for expansion of this airport.

If the FAA can fund the re-construction of 13-31 with an incorrect layout plan, erroneous counts, and knowing full well there are 24 homes in a CII RPZone, they should have no problem funding re-construction of our noise abatement runway regardless of whether the MPU is completed or whether the layout is BII vs. CII. The Airport Advisory Board and Airport Manager should be spending their time procuring this grant and making sure that the airport is compatible with the surrounding community. If they are not able to do that, they need to step aside and let others take over who are capable...

## Exhibit D

From: suelang99@hotmail.com  
To: swoose411@yahoo.com  
Subject: RE: VNC announcement  
Date: Sat, 24 Nov 2007 09:29:18 -0500

Tom, don't forget for the Dec. meeting to remind members that January is the Annual meeting and Jan 2008 is election of Officers and Directors (3 year terms). You may need to draft some people into being on the Board, etc. Try to get Maxine to stay on and also Ted, Bill Newnam and Bill Steen. Margaret has stated that she won't run; she's having health problems and very old.. I'd like to see Mike Rigdon on the Board and Tim MacFerrin; also, Mike Rafferty; Bruce Lebedun; Randal Greene. i agree with your approach on dissolving the AAB. If you can confirm Moore, we should have 4...

## Exhibit E

From: suelang99@hotmail.com  
To: 2aceman@verizon.net; venice237@juno.com; bob@inova-research.com;  
jimbythesea@yahoo.com; joyce-in-venice@comcast.net; jtmacf62@hotmail.com;  
frontporchpress@comcast.net; ljfr@aol.com; thurmangreene@msn.com; maxiboss@aol.com;  
vauzanges@comcast.net; willnew@verizon.net; heevac@comcast.net; mcdmiller@comcast.net;  
tvaug@yahoo.com; swoose411@yahoo.com; suelang99@hotmail.com  
Subject: Council/Sunshine Laws  
Date: Sat, 1 Dec 2007 16:06:32 -0500

Dear Friends and Coalition Board Members:

Just a quick email to advise you that communications sent to me that are about a subject that is either on the City Council agenda or may in the foreseeable future come before Council, are subject to sunshine laws, freedom of information, etc. To avoid a problem with subjecting my personal email box (suelang99@hotmail.com) to public disclosure, please send any email which concerns or could conceivably concern a matter which is or might be on a City Council agenda to my city email address: slang@ci.venice.fl.us Keep in mind that everything sent to this box is open to the public and can be viewed by other elected and appointed officials. We are also not allowed to discard anything sent to us except incidental announcements, etc.

Feel free to call me if you do not want your comments on the public record. However, if it has to do with a quasi judicial item that is, or may go before Council, (this is an agenda item that requires a public hearing like a re-zone or an appeal, etc.), please be advised that I may not discuss these items with anyone, but you can make comments/express your concerns to me. (I am, however, supposed to document your comment and disclose it if and when the public hearing occurs... Documentation means name, date and brief summary of comment. I must also attest that your comments do not affect or prejudice my judgement.)

A few more facts about sunshine laws: two or more Council Members may not discuss (confer on) anything that is on an agenda or may reasonably be expected to go before City Council. This means that Council Members are allowed to individually comment on items to anyone including other Council Members, verbally or in writing, but no Council Member can respond to, or confer with another, etc. except at a public meeting duly advertised. (On quasi judicial items Council is not supposed to comment...).

If you have any questions, please do not hesitate to call me. And please keep in touch and keep sending your comments and concerns so that our elected and appointed officials will know how you feel/where you stand on an issue, etc.

## Exhibit F

From: suelang99@hotmail.com  
To: edwilsonmartin@hotmail.com  
Subject: Liaison/Ex Officio Assignments  
Date: Sun, 2 Dec 2007 16:17:05 -0500

Mayor Ed,

Since Marty and Anderson said that we can discuss off the record our individual choices/requests re: assignments, i thought i'd send you a note to let you know my latest thinking. I previously sent you my request for my top 3 choices and indicated i'd be willing to do VHA also. As i mentioned the other night, while i'm not desperate to do VHA, i feel i'm the one best suited for this assignment and i think that i have started a relationship with some of the tenants and interested parties, and, i understand from others that the tenants are almost starting to think they may be able to trust me. The lack of trust in previous elected and appointed officials is the biggest problem at VHA. So i think it would be disconcerting if the City, again, changed assignments there right now. It is imperative, i think, that we get some new folks on the VHA Board who have construction experience and aren't aligned with any developers.

I also wanted to tell you that while i would like to be assigned to the Planning Commission, if John Moore has a real interest in it, that would be ok with me. I really hoped that John would take the Airport, but i have a feeling that he won't request it; you would have to ask him to do it.... the important thing is to replace Corlucci and Bartaniwicz in February, and as soon as possible, disband and replace this Board.

I had listed Parks and Rec as my third choice (Airport as my second); there are pro's and cons to my being assigned to the Airport which i'll leave up to your judgement and strategy. So, in conclusion, if for example you assigned Moore to Planning instead of me and you didn't want to change Simmonds right now, i'd be fine with Parks and Rec. (If I get Planning i hope you assign Ernie to Parks and Rec because it is more important than people realize in light of the need to conserve more land, increase green space and trees, etc.)

I'm also filling in this month at the Architectural Review Board. I am somewhat interested in this, but i realized that they meet twice a month starting at 9am and i think that too much of my time might be consumed by this/i won't be able to keep up with everything. This is one that perhaps Rick Tacy, who will need a replacement assignment assuming he will not be re-assigned to Planning Commission., might be suited for...

Lots of luck trying to make sense of all this...

## Exhibit G

From: suelang99@hotmail.com

To: mckeon628@verizon.net

Subject: RE: Point Paper

Date: Thu, 6 Dec 2007 12:05:43 -0500

Confidential: Kit, i recommend you put your name in for the Airport Advisory Bd in addition the Planning Commission. I have encouraged Jim Marble and Mike Rafferty to submit also, but Mike is a little reluctant because he is typically away for several months in the summer. In the event Mike feels he can't do it, we need another person so that both Carlucci and Bartanowitz can be replaced when their terms come up in Feb. Of course, our first preference is to disband the AABd, but that may take a while and if there are 3 members of the AABd that suggest disbandment and creation of something that is more akin to a citizens oversight board, that would also help the cause!

> Date: Tue, 27 Nov 2007 09:28:02 -0600

> From: mckeon628@verizon.net

> Subject: Point Paper

> To: suelang99@hotmail.com

>

>

>

> Kit (Thomas C.) McKeon

> C: 941-408-3277

> H: 941-485-3193

> E: mckeon628@verizon.net

## Exhibit H

From: suelang99@hotmail.com  
To: mckeon628@verizon.net  
Subject: RE: Point Paper  
Date: Thu, 6 Dec 2007 12:30:34 -0500

Confidentially i think your chances of getting on Plan Com are very good as only 3 including yourself have applied for the 3 seats. I was thinking that in the event Mike didn't apply for AABd, maybe you could do both and help to get the airport classed as BII, etc. then disband the AABd...

## Exhibit I

From: tiltingatwindmills@comcast.net  
To: John Moore <mailto:j.k.Moore@comcast.net>  
Sent: Tuesday, February 12, 2008 9:27 PM  
Subject: airport

John, I am pleased that we were on the same page on pursuing the airport "on the grounds" and believe some new blood on the airport board may help. We shall see.

Do you think Dan Boone really cares about the board or was trying to flex his muscles?

It is sad that John Simmonds, basically read the script prepared for him, including the mistake about substitution of Jim Marble for Bart, just as Boone had said.

I have not figured Vicki out yet, I thought perhaps she might be emancipated, but perhaps she feels we are changing things more than she feels comfortable with, not just on this issue. Or maybe she wants CQG support if she runs again. I hope she will come our way on some issues.

If Bart had used his FAA knowledge to help draft an alternate layout plan, I would have almost certainly have kept him, but from observation and speaking with members, no one, including him, really came up with anything. If Marble, et.al. had not done the research themselves we would have nothing or have to pay a consultant to do it. Of course the FAA may not agree with it, but we can push pretty hard if we have a cross section of the aviation community supporting it, including try to elicit support from Sen Nelson and perhaps other delegation members.

Thanks and best,

Ed.

## Exhibit J

**From:** John Moore <j.k.moore@comcast.net>  
**To:** tiltingatwindmills@comcast.net  
**Cc:**  
**Bcc:**  
**Subject:** Re: airport  
**Date:** 2/13/2008 8:23:02 PM

I have recorded your new email address...you still have four, I believe. Is this what I would call your personal email?  
I have know Bart since I first ran for council. I consider him a friend. And, I would welcome his further involvement with the airport, etc. However, these appointments are the Mayor's prerogative. I have never voted against one in five years and wouldn't in this case, especially where you have obviously nominated very qualified people, because I believe our boards need new blood. We're fortunate to have so many capable people willing to work on the AAB. I don't want to comment on others motivations...I think it's clear without my 2 cents.  
By the way, I thought you did an outstanding job of explaining your appointments in light of John S. sneak attack.

## Exhibit K



From: sue lang <suelang99@hotmail.com>  
To: equandt@aol.com  
Cc: maxiboss@aol.com  
Sent: Wed, 28 Nov 2007 9:55 am  
Subject: RE: Audubon Talk

Note: do not forward or distribute this email.

Great letter Earl; thanks for birddogging the bike connector. we have to keep on them til it gets done.

I spoke to Rosemary this morning and she will be calling you and Maxine about Tramonto park; i think we need several dozen people to write letters to the Mayor and Council and newspapers stating that residents only want one large pavilion, not 3, and, a small amphitheater, not a large professional style facility... i think these are the two main sticking points. Also, keep pushing for less impervious paving and more trees throughout the park. Make sure that people ask Lori to distribute to all Council Members. I need to be able to make the case that there are dozens of residents who don't want 3 large pavilions or a large professional style band shell, etc. in order to counter the Chamber groupies who keep coming out and saying they want these things... Please call VNC members and your friends and ask them to write letters. Also, it would be helpful if you and Max and Rosemary personally call Ernie, Ed Martin and John Moore to ask that they not approve 3 large pavilions or a large professional style performance facility.  
thanks

## Exhibit L

From: suelang99@hotmail.com  
To: j.k.moore@comcast.net  
Subject: RE: Revised RTR Text  
Date: Thu, 29 Nov 2007 09:38:11 -0500

John, I remembered after the meeting that several months ago/maybe longer, you had asked staff to consider using chickee thatch roofs, etc. for the large pavilions at Tramonto. This was a really good suggestion and I feel, would go a long way toward making these pavilions fit in with the natural surroundings in that area. (Although I still feel that we only need one large pavilion.) Perhaps the amphitheater could also be designed with the chickee thatch roof, if there is going to be a roof at all.... (I feel strongly that the amphitheater be small and very natural in design and materials.) I also continue to believe that a lot more trees in this park would be good, not just for the environment, but for people using the park... We need shaded trails for people to walk on and the trails around the pond and to the beach in Tramonto would make a great place for a shaded trail walk. We need to plant trees on both sides of the trails in order to create shade. This needs to be part of the design now....

From: j.k.moore@comcast.net  
To: suelang99@hotmail.com  
Subject: Re: Revised RTR Text  
Date: Wed, 28 Nov 2007 20:43:04 -0500

Thanks, Sue. This may be academic now, but I wanted to have a copy of what you had done to this zoning district. John

----- Original Message -----

From: sue lang  
To: john moore  
Sent: Wednesday, November 28, 2007 7:49 AM  
Subject: Revised RTR Text

John, attached is my revised RTR District. Please note this was revised to allow condo hotels in the RTR zone. Since Miller is now saying he isn't doing a condo hotel, we don't really need all of these revisions. The revisions also clarify how time shares would be treated because the existing RTR isn't clear on these. Also, the current RTR allows 45 ft. plus 10 for parking under. Since developers have been saying they need more than 10 ft for parking under a non residential structure, and/or to allow for commercial use on the same level as the parking under the building, i used a total maximum height of 59 ft. instead of 55 ft. This could be changed to a total of 45 or 49 ft. Let me know how you believe a revised RTR should be structured. There are additional changes i would probably make. At this point, I would be inclined to remove condo hotels and consider them as residential. This would be cleaner.... I would still go with 36 units per acre for hotels, motels and interval occupancy (timeshare) units including allowing all of them to have small kitchenettes/dining areas as long as they are rented nightly or weekly and maximum occupancy is 30 days....

## Exhibit M

From: Rick Tacy  
To: Kim.Hackett@heraldtribune.com  
Date: Friday - May 2, 2008 8:41 PM  
Subject: Re: 4/29/08 Airport Article

Kim, first I understand this e-mail is covered under the sunshine law. I need to let you know the Mayor and others are deyning your article and it's content. Further more I can't varify your previous writings, though I'm 100 percent sure you were correct. I can and will testify in court that today after our meeting, that the Mayor, Sue Lang and a nother non-member of council were in the meeting room going over their proposed airport plan. A total violation of the Sunshine Law. Feel free to contact me.

RICK

Exhibit N

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From: Lori Stelzer  
To: City Council  
CC: Martin Black; randerson@hall-anderson.com; Tom Slaughter  
Date: Friday - May 9, 2008 9:55 AM  
Subject: E-mail

---

I have been advised that council members have received e-mails from constituents relative to the Cemex rezone petition. I have not received any of those documents from council members to be entered into the quasi judicial hearing scheduled for 5/27/08. Any correspondence you receive/send that should be part of a public hearing should be forwarded to me. I am not copied on many of the e-mails you receive and I do not monitor your e-mails on the media account.

Also, remember that as an individual user, you are responsible for maintaining your e-mails in accordance with state laws, specifically retention requirements. The e-mails are not backed up by the IS department, nor do they stay in the media account. Some of the key points are:

1. Keep all e-mails received from constituents. You can create folders in your electronic cabinet.
2. You are allowed (and encouraged) to delete transitory e-mails.
3. Keep all e-mails you send (unless they are transitory)
4. You can delete e-mails from staff, because as originator of that e-mail, they are responsible for maintaining the record.
5. You can print out a hard copy and file it in the traditional way and delete the e-mail.

If you have any questions on the best way for you to maintain those records, please see me. Thanks!

## Exhibit O

<http://www.ci.venice.fl.us/gw/webacc?User.context=lvdpmaYc6tm2nl6Luc&Item.drn=40...> 8/20/2008

May 20, 2008

*VIA EMAIL & FACSIMILE*

Lstelzer.ci.venice.fl.us

(941) 480-3031

Lori Stelzer, City Clerk  
City of Venice  
401 W. Venice Avenue  
Venice, FL 34285

Dear Clerk:

This letter shall constitute our request under section 119.07, Fla. Stat., for the following records:

1. All email communications to and from council members, including non-city account emails utilized by council members, for the period beginning November 14, 2007, through the date of receipt of this letter, including any email attachments.

For purposes of this request, the term "records" shall have the statutory definition set forth in section 119.011(11), Fla. Stat.

If you are contend that any record, or portion thereof, is exempt from inspection, please state in writing the basis for the exemption and include the applicable statutory exemption. See section 119.07(1)(c), Fla. Stat. Additionally, pursuant to the requirements of section 119.07(1)(d), Fla. Stat., we hereby request that you explain in writing and with particularity the reasons for your conclusion that the record is confidential or exempt.

We would direct your attention to the following statutory requirements set forth in section 119.07(1), Fla. Stat.:

(f) Even if an assertion is made by the custodian of public records that a requested record is not a public record subject to public inspection or copying under this subsection, the requested record shall, nevertheless, not be disposed of for a period of 30 days after the date on which a written request to inspect or copy the record was served on or otherwise made to the custodian of public records by the person seeking access to the record. If a civil action is instituted within the 30-day period to enforce the provisions of this section with respect to the requested record, the custodian of public records may not dispose of the record except by order of a court of competent jurisdiction after notice to all affected parties.

**Exhibit P**

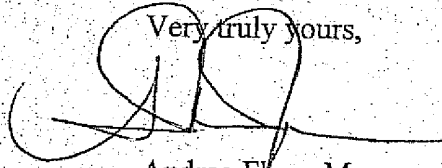
(g) The absence of a civil action instituted for the purpose stated in paragraph (e) does not relieve the custodian of public records of the duty to maintain the record as a public record if the record is in fact a public record subject to public inspection and copying under this subsection and does not otherwise excuse or exonerate the custodian of public records from any unauthorized or unlawful disposition of such record.

If any of the requested documents are maintained in a common-format electronic-medium, please provide these documents in such electronic medium and not in paper form. For purposes of this request, common electronic-formats include (1) American Standard Code for Information Interchange ("ASCII"), (2) email files formatted in Microsoft Outlook known as a .pst file; (3) files formatted in one of the Microsoft Office Suite, Corel Suite, OpenOffice Suite, or IBM's Lotus Suite applications (.doc, .xls, .ppt, .mdb, .wpd, etc.), (4) a text file (.txt), or (5) hypertext markup language (.html) or similar web page language. This is the preferred format. However, if any of the requested documents are only maintained or can only be produced as electronic images, for example a portable document format (.pdf), then as an alternative, we request this electronic-image format. See §119.01(2), Fla. Stat.

By copy of this letter to the City Attorney and all council members, we are requesting that all emails, including emails sent to and from non-city email accounts, be preserved.

If you have any questions about the nature or extent of this request, please do not hesitate to contact our office.

Very truly yours,



Andrea Flynn Mogensen

cc: Mayor Ed Martin (emartin.ci.venice.fl.us)  
Sue Lang (slang.ci.venice.fl.us)  
Vicki Noren (vnoren.ci.venice.fl.us)  
Ernie Zavodnyik (ezavodnyik.ci.venice.fl.us)  
John Simmonds (jsimmonds.ci.venice.fl.us)  
John K. Moore (jmoore.ci.venice.fl.us)  
Ricky Tacy (rtacy.ci.venice.fl.us)  
Martin Black (mblack.ci.venice.fl.us)

## MEMORANDUM

TO: Lori Stelzer, City Clerk

FROM: John K. Moore

DATE: May 22, 2008

SUBJECT: Public Records Request

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In response to three public record requests which I received via city email on May 21, 2008, requesting all email communications to or from council members in my personal email from November 14, 2007 thru May 21, 2008, I am providing copies of five emails dated November 22, 2007, November 29, 2007, February 13, 2008, February 15, 2008 and April 27, 2008. I could not retrieve the attachment to Ms. Lang's email of November 28, 2007, so I am providing a copy from my file. The document was a proposed revision to the RTR zoning district which Ms. Lang had prepared the year before as a private citizen. I had requested a copy of this document from her because I had misplaced the one she had given me before she ran for city council.

These are all the emails to or from council members on my personal email during the period from November 14, 2007 thru May 22, 2008. I do not have any personal emails to or from any citizen's group regarding the airport.

Although I did not initiate any of these emails, I did respond to three of them in a manner which, at the time, seemed very innocuous, because it was not my intent to engage in a discussion of any issue which would come before city council or upon which I would be required to vote. However, as I look back at my responses now, in hindsight, I can see how some of them could be interpreted as a violation of the Florida Sunshine Law. At the very least, they could give the appearance of a violation and undermine the public's confidence in me as one of their elected representatives. Given my background and length of service on city council, I should have known better. For that I am very sorry and accept full responsibility for my actions.

# Exhibit Q

**John Simmonds**  
**1329 Tarpon Ctr. #2**  
**Venice Fl 34285**  
May 29, 2008

Ms. Lori Stelser  
City Clerk  
City of Venice  
Venice Fl 34285

Dear Lori

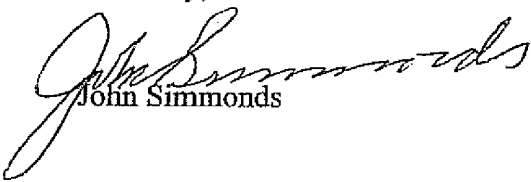
Attached are documents concerning "City Business". Some of the content of these documents have appeared in E-Mails I have sent from my personal computer via my personal e-mail acct.; And on rare occasions I have sent them on the City of Venice e-mail [Group wise] system, when they were generated on my personal Computer.

I have deleted almost all of my e-mails from my personal computer. I now find that City E-mail deleted from my personal computer, also deletes them from the City system. I have asked you and our city computer dept. to see if the ones deleted from the city system can be recovered.

Most of the e-mails concerned were to and from citizens who complained about the City Airport activity. Some of the precipitants were: Ms Kutie, Mike Rafferty, Tom Brenner, Ms. Cathy Peterson, and John Patten.

I had forgotten that I have to keep e-mails generated at home if they cited city business. I am painfully aware now, and sincerely apologize to my colleagues, the City of Venice and anyone who is offended by my actions.

Sincerely,

  
John Simmonds

Copy:

Robert Anderson  
City Attorney

**Exhibit R**



THE LAW OFFICE OF  
**ANDREA FLYNN MOGENSEN, P.A.**

200 SOUTH WASHINGTON BOULEVARD - SUITE 5 - SARASOTA, FLORIDA 34236

TELEPHONE: 941-955-1066

ANDREA@SARASOTACRIMINALLAWYER.COM

FACSIMILE: 941-955-1008

June 12, 2008

*VIA EMAIL & FACSIMILE*

Lstelzer@ci.venice.fl.us

(941) 480-3031

Lori Stelzer, City Clerk  
City of Venice  
401 W. Venice Avenue  
Venice, FL 34285

Dear Clerk:

This letter shall constitute a request under section 119.07, Fla. Stat., for the following records:

1. All email communications to and from members of the Airport Advisory Board, including non-city account emails utilized by board members, for the period beginning July 1, 2005, through the date of receipt of this letter, including any email attachments.

For purposes of this request, the term "records" shall have the statutory definition set forth in section 119.011(11), Fla. Stat.

If you are contend that any record, or portion thereof, is exempt from inspection, please state in writing the basis for the exemption and include the applicable statutory exemption. See section 119.07(1)(e), Fla. Stat. Additionally, pursuant to the requirements of section 119.07(1)(f), Fla. Stat., we hereby request that you explain in writing and with particularity the reasons for your conclusion that the record is confidential or exempt.

We would direct your attention to the following statutory requirements set forth in section 119.07(1), Fla. Stat.:

(h) Even if an assertion is made by the custodian of public records that a requested record is not a public record subject to public inspection or copying under this subsection, the requested record shall, nevertheless, not be disposed of for a period of 30 days after the date on which a written request to inspect or copy the record was served on or otherwise made to the custodian of public records by the person seeking access to the record. If a civil action is instituted within the 30-day period to enforce the provisions of this section with respect to the requested record, the custodian of public records may not dispose of the record except by order of a court of competent jurisdiction after notice to all affected parties.

**Exhibit S**

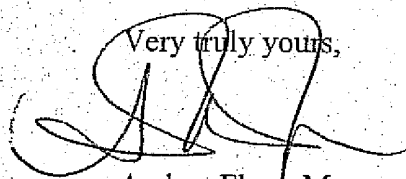
(i) The absence of a civil action instituted for the purpose stated in paragraph (g) does not relieve the custodian of public records of the duty to maintain the record as a public record if the record is in fact a public record subject to public inspection and copying under this subsection and does not otherwise excuse or exonerate the custodian of public records from any unauthorized or unlawful disposition of such record.

If any of the requested documents are maintained in a common-format electronic-medium, please provide these documents in such electronic medium and not in paper form. For purposes of this request, common electronic-formats include (1) American Standard Code for Information Interchange ("ASCII"), (2) email files formatted in Microsoft Outlook known as a .pst file; (3) files formatted in one of the Microsoft Office Suite, Corel Suite, OpenOffice Suite, or IBM's Lotus Suite applications (.doc, .xls, .ppt, .mdb, .wpd, etc.), (4) a text file (.txt), or (5) hypertext markup language (.html) or similar web page language. This is the preferred format. However, if any of the requested documents are only maintained or can only be produced as electronic images, for example a portable document format (.pdf), then as an alternative, we request this electronic-image format. See §119.01(2), Fla. Stat.

By copy of this letter to the City Attorney and all current board members, we are requesting that all emails, including emails sent to and from non-city email accounts, be preserved. Additionally, we are requesting that you notify all prior board members during the time period specified of this request.

If you have any questions about the nature or extent of this request, please do not hesitate to contact our office.

Very truly yours,



Andrea Flynn Mogensen

cc: Robert Anderson ([randerson@hall-anderson.com](mailto:randerson@hall-anderson.com))  
Martin Black ([mblack@ci.venice.fl.us](mailto:mblack@ci.venice.fl.us))  
Walter Hake ([whake@comcast.net](mailto:whake@comcast.net))  
Susan Balsinger ([Ssb519@aol.com](mailto:Ssb519@aol.com))  
Paul Hollowell ([turbol71@verizon.net](mailto:turbol71@verizon.net))  
James Marble ([jimbythesea@yahoo.com](mailto:jimbythesea@yahoo.com))  
Jim Leis ([jleis445@comcast.net](mailto:jleis445@comcast.net))  
Kim Stephens ([kim@homesofvenice.com](mailto:kim@homesofvenice.com))  
John Yurosko ([jjyurosko@aol.com](mailto:jjyurosko@aol.com))  
John Simmonds ([jsimmonds@ci.venice.fl.us](mailto:jsimmonds@ci.venice.fl.us))

**Lori Stelzer - \*FILTERED:\* Request for EMails**

---

**From:** "Bartanowicz" <rbartano@verizon.net>  
**To:** <lstelze@ci.venice.fl.us>  
**Date:** 5/29/2008 3:21 PM  
**Subject:** \*FILTERED:\* Request for EMails

---

Dear Ms Stelzer;

Per your telephone request of May 29, 2008 requesting copies of Email pertaining to the airport I routinely delete my Email files. I have Emails on record from 3/20/2008 to the present. I was not reappointed to the Airport Advisory Board and I believe my last official meeting was on Feb 13, 2008. As such The period from 3/20/2008 to present covers a period when I was no longer on the Airport Advisory Board.

Robert S. "Bart" Bartanowicz

Exhibit T

Lori Stelzer - \*FILTERED\* Re: Public Records Request

From: Nicholas Carlucci <jocesana72@verizon.net>  
To: Lori Stelzer <lstelze@ci.venice.fl.us>  
Date: 5/31/2008 1:24 PM  
Subject: \*FILTERED\* Re: Public Records Request

I regret that I am unable to comply with your request as I routinely delete my e-mails. I do this at least once a month and more often than not on a weekly basis. The AAB was never tasked by City Council to review any of the airport land development proposals. The AAB reviews of the Master Plan Update/ALP were extensive and open to the public. Hangar discussions were part of the AAB airport budget/fair market value MPU public review process. T- hangar rent increases ( to bring those rents up to full fair market value) for the past two years were unanimously approved while I was on the AAB. Those rent increases were preceded by a third rent increase that occurred the year before I was on the board. The Airport Manager (Director) sends AAB members FYI e-mails over a wide variety of subjects. Some of his FYI e-mails may have contained some of the key words but I have no record to support that claim.  
Yours Truly, Nick Carlucci

Lori Stelzer <lstelze@ci.venice.fl.us> wrote:

Pursuant to our discussion today, please provide me with the following documents:

1. All e-mails from your personal e-mail account from 1/1/06 to 2/22/08 with other airport advisory board members, John Simmonds and/or Fred Hammett, with the following key words: Marriott, Golf, lease, and hanger/hangar (both spellings).
2. All e-mails in your personal e-mail account from 1/1/06 to 1/1/08 with John Simmonds, the city manager and/or airport manager, with the key words: Marriott, airport layout plan, VGA or marina.

Also, if you believe you have deleted any e-mails that may fall under this request, please indicate so.

You may forward these e-mails to me or print them out and provide hard copies to my office.  
Thank you so much for your assistance.

file://C:\Documents and Settings\lstelze\Local Settings\Temp\XPgrpwise\484151A8Venice-... 6/2/2008

## Exhibit U

## Linda Depew - Public Records Request

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**From:** <SSB519@aol.com>  
**To:** <ldepew@ci.venice.fl.us>  
**Date:** 5/27/2008 5:12 PM  
**Subject:** Public Records Request

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Hi Linda:

I'll be out of town until Saturday, so I cannot comply with your request at this time. In checking my e-mail on AOL, the messages I've found in that time frame cannot be forwarded or restored due to the age. Was wondering if your IS department may know of a way to garner them without me having to print them for you.

Please give me a call on Monday at 650-3741 to discuss my options.

Thanks and have a great weekend.

Susan Balsinger  
941-488-1542 (Home)  
941-650-3741 (Cell)

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# Exhibit V

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