

# Fishers Island Ferry District

*Minutes of the meeting of the Board of Commissioners  
Fishers Island Ferry District  
October 12, 2015*

Present were Commissioners Ahrens, Shillo, Rugg, Bloethe and Parker. Present were Managers, RJ Burns and Gordon Murphy Members of the Public included Mr. Peter Gaillard.

The commissioners appointed Mr. Rugg as the meeting chairman and a meeting of the Board of Commissioners of the Fishers Island Ferry District was called to order on October 12, 2015 at 4:33 PM by Commissioner Rugg at the Fishers Island Community Center. Commissioner Rugg led the pledge of allegiance.

## **PUBLIC COMMENT/CORRESPONDENCE:**

FI Waste Management District sent a letter to the board noting that the FD's request a credit facility between both tax districts would be on their next agenda.

Union Chapel sent a letter requesting free New London parking once a month for their organist. After a brief discussion and there being no further discussion, a resolution was made to provide the organist with free parking in New London once a month.

Moved by: Commissioner Parker  
Seconded by: Commissioner Ahrens  
Ayes: All  
Nays: None

## **REVIEW OF MEETINGS & MINUTES:**

Upon review of the September 14<sup>th</sup>, 2015 meeting minutes it was agreed to approve them as amended.

Moved by: Commissioner Parker  
Seconded by: Commissioner Shillo  
Ayes: All  
Nays: None

## **Finance:**

### **WARRANTS:**

A list of outstanding obligations of the Ferry District were received and discussed. There being no further discussion, a resolution was made to pay the outstanding obligation totaling \$100,263.70.

Moved by: Commissioner Parker  
Seconded by: Commissioner Rugg

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Ayes: All

Nays: None

Mr. Murphy gave a brief overview of the 2015 budget modifications (attached as an exhibit to the minutes). After a short discussion a resolution was made to approve the budget modification.

Moved by: Commissioner Parker

Seconded by: Commissioner Shillo

Ayes: All

Nays: None

Mr. Murphy presented a brief budget overview and requested a special meeting on 23 October to focus specifically on finance and the 2016 budget. In addition, Mr. Murphy recommended that the board consider setting a late fee charge on customer credit terms on balances over thirty days from billing. The board tabled this and requested management to prepare a formal recommendation at the November meeting.

At 5:00 PM Thomas Horth and Daniel Lupone of C&S Engineering called in to the meeting to present the results of the airport bidding results for the relighting of Elizabeth Field Airport. It was noted that the lowest bid came in at approximately 40% higher than estimated from initial indications and budgeting. There were conversations between FEMA, C&S and the FD on many factors; how did this occur (too small a contract to gain economies of scale), can FEMA increase to cover this (yes as long as the scope of the project was not changed), can the FD absorb an \$18,000 increase in its required 10% obligation on the grant (yes) and how does this effect timing and cash flow (grant lasts until October 2016 and the contractor wants to work this winter)? A discussion occurred with all parties participating. Management and C&S were asked how Groton airport fared in Sandy and fixing its facility.

Mr. Burns presented the status of the Munnatawket bow thruster incident and subsequent repair noting how well the crew and Fairhaven reacted to the incidents to its rushed repair. Crew and Fairhaven Shipyard made the repair including transit to and from New Bedford in a one day turnaround.

On October 2, 2015 the bow thruster of the MU ceased to function. Due the emergency nature of this breakdown and that Thames Shipyard would not be able to dry-dock the vessel in a timely manner the MU was sailed to Fairhaven Shipyard for repairs. The BOC and management

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agree to the nature and solutions and the need to immediately address the situation without being able to have the work quoted as per the procurement policy.

MOVED by Commissioner Rugg

SECONDED by Commissioner Parker

Ayes: All

Nays: None

Mr. Burns presented a update of the cargo trips noting that the FD is doing well to put as much freight and commercial traffic on them, but over-all the trips are below break even. It was also noted that the change in the ticketing system has not worked to properly track this activity from a rev/exp perspective. Management is working with the developer to address this. It was also noted that Management is looking into adjusting the Winter Schedule for the first quarter to remove a mid-day trip to allow for maintenance. Commissioner Ahrens added that it was mandatory that fuel deliveries take priority over all other cargos. Mr. Burns replied that he and everyone was well aware of this.

A discussion on the South Ramp project and the contractor's billing ensued.

At the March 16<sup>th</sup> 2015 meeting the South Ramp project work was awarded to Mattern Construction Inc. ("Mattern") with the following resolution.

*Management recommends that the Mattern proposal for the South Ramp Project be accepted. This is the only bid that we received and we recommend accepting it subject to a cap of \$60,000.*

*Moved by: Commissioner Parker*

*Seconded by: Commissioner Ahrens*

*Ayes: All*

*Nays: None*

Mattern was the sole bidder on the project. Mattern is not a NY business. Throughout the project, management did not follow proper purchasing processes as defined in the NYS General Municipal Law. At this time, management and the Board wish to correct these oversights, establish better internal processes to manage projects in accordance with the prevailing law(s) and pay the contractor, Mattern, for the excellent work performed on this project and on other projects for the FD.

The Board resolves the following:

1. Affirm that Mattern was the sole bidder on the project.

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2. Amend the March 16<sup>th</sup>, 2016 award resolution to Mattern noting that the original RFP did not state that the project is a public works project and must be bid based on Suffolk County, NY prevailing wages.
3. Accept three change orders for the project:
  - a. Addition of reinforcing steel (rebar) to the concrete pad - \$1,140.00
  - b. Four items totaling (\$137.00) as noted in the previously circulated change order of July 21 (attached.)
  - c. The requirement in Public Works contracts to pay Suffolk County, NY prevailing wages, which adds \$71,263.87 in wage adjustments, supplemental benefit payments, and associated withholding (FIT, FICA, Medicare, etc.) and administrative overhead.
4. Approve payment to Mattern for all work completed in the amount of \$130,376.87 Payment of \$43,820.06 is immediately authorized for invoice # 5776 for \$59,113.00 less \$14,748.94 paid on invoice #5749. \$71,263.87 (the prevailing wage addition/change order) is subject to a complete review by management and by the Finance Committee. Finance Committee approval of the final payment amount will be ratified at the next Board meeting.
5. Authorize management to execute any other reasonable documents with regard to the above, after presenting such documents to the Board for review.

MOVED by Commissioner Parker

SECONDED by Commissioner Ahrens

Ayes: All

Nays: None

Mr. Murphy gave a brief summary of how the Friends of the Fishers Island Theater (FFIT) select and advance the movie rental fees (paid to the various distributors) and that FFIT would bill the Ferry District for reimbursement. This was done as most distributors require an advance which is not permitted under the FD's guidelines.

The Community Theater which is managed by the FD is required to lease movies during the summer season. These movies sometime require a deposit before the movie will be shipped. The Friends of the FI Theater (whose funds are held in a joint account with the Island Community Center) has paid the distributor fees and will invoice the FD in November for the movies that are shown.

MOVED by Commissioner Parker

SECONDED by Commissioner Rugg

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Ayes: All

Nays: None

Mr. Burns spoke about his research into alternative ship repair options. He reviewed each vendor and their pros' and con's.

Mr. Murphy gave a summary on human resource items with the following resolutions presented and a brief conversation.

With effect September 29, 2015, Diane Richmond, Cashier (FIFD) has voluntarily resigned from the Ferry District.

With effect October 15th, 2015, Jeffrey Nossek is appointed full-time Purser (FIFD) at \$ 14.64 per hour.

MOVED by Commissioner Parker

SECONDED by Commissioner Bloethe

Ayes: All

Nays: None

In addition Mr. Murphy presented a resolution with regard to employee Mr. R LeFevre. The document is six pages in length and is attached as Exhibit B..

## **RESOLUTION ACCEPTING A HEARING OFFICER'S RECOMMENDATION**

NOW, THEREFORE, BE IT RESOLVED, that the District adopts the Hearing Officer's Decision that the Employee is guilty of Charge 1, Specifications 1(aa) and (rr), 3, 4, 5, and 6; Charge 2, Specification 1; and Charge 3, Specifications 1 through 7 and not guilty of Charge 1, Specification 2; and

BE IT FURTHER RESOLVED, that the District adopts the Hearing Officer's Decision finding that the Employee is not entitled to back pay; and

BE IT FURTHER RESOLVED that, effective October 12, 2015, the Employee is terminated for the reasons set forth in the Hearing Officer's decision and this Resolution.

Moved by: Commissioner Ahrens

Seconded by: Commissioner Bloethe

Ayes: All

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Nays:           None

Mr. Murphy summarized the request by the Town for reimbursement for legal fee and payments made on a FD related incident.

In the course of a legal settlement the Town of Southold has requested to be reimbursed for their legal defense up to the retainer amount paid to their insurance company. It is therefore resolved to agree this request and to include on the next warrant.

MOVED by Commissioner Parker

SECONDED by Commissioner Ahrens

Ayes: All

Nays: None

The next scheduled meetings of the Fishers Island Ferry District Board of Commissioners will be held October 23, 2015 at 2:00 PM and November 9, at 4:30 preceded with a working session at 3:30 at the Fishers Island Community Center.

## **MEETING ADJOURNMENT**

There being no further business to discuss, and on motion made by Commissioner Rugg, seconded by Commissioner Parker, and unanimously adopted, the meeting was adjourned at 6:36 PM.

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Exhibit A

	<b>Fishers Island Ferry District</b>	
	<b>12-Oct-15</b>	
RESOLVED that the Commissioners of the Fishers Island Ferry District hereby amend the 2015 Fishers Island Ferry District budget as follows:		
<u>Decrease Appropriations</u>		
SM1910.4.000.100	Ferry Insurance	\$8,300
SM5709.2.000.000	Repairs, Other - Other	\$5,000
SM5709.2.000.100	Repairs, Rental Bldg	\$10,000
SM5710.4.400.100	Marine Engineering	\$15,000
SM5710.4.000.300	Fuel Oil, Vessels	\$70,000
SM9010.8.000.000	NY State Retirement, Benefit	\$96,000
SM1980.4.000.000	MTA Tax	<u>\$3,000</u>
	Total	\$207,300
<u>Increase Appropriations</u>		
SM1930.4.000.000	Insurance Claim	\$3,000
SM5709.2.000.200	Docks & Terminals	\$120,000
SM5710.1.000.000	Payroll Expense	\$24,000
SM5710.1.000.300	Vacation Earnings	\$750
SM5710.2.000.100	Ferry Repairs Munnatawket	\$10,000
SM58710.4.000.600	Janitorial Supplies	\$1,500
SM9030.8.000.000	Social Security	\$12,000
SM9060.8.000.000	Medical Insurance	<u>\$36,050</u>
	Total	\$207,300
MOVED by Commissioner Parker		
SECONDED by Commissioner Shillo		
Ayes:		
Nays:		

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Exhibit B

## **RESOLUTION ACCEPTING A HEARING OFFICER'S RECOMMENDATION**

WHEREAS, pursuant to Civil Service Law Section 75, a Hearing Officer was appointed to conduct a hearing on disciplinary charges that were preferred on or about November 12, 2014 against an Employee (“the Charges”); and

WHEREAS, the Hearing Officer conducted hearings on June 24 and 25, 2015; and

WHEREAS, the parties submitted post-hearing briefs on or about September 2, 2015; and

WHEREAS, the Hearing Officer issued a decision on September 11, 2015 (“the Decision”) in which he recommended that the Employee be found guilty of: Charge 1, Specifications 1(aa) and (rr), 3, 4, 5, and 6; Charge 2, Specification 1; and Charge 3, Specifications 1 through 7; and

WHEREAS, the Hearing Officer recommended that the Employee be found not guilty of Charge 1, Specification 2; and

WHEREAS, Charge 1, Specifications 1(aa) and (rr) alleged that, on May 1, 2014 and July 2, 2014, the Employee clocked in early without having any work-related reason for doing so; and

WHEREAS, the testimony at pages 25-33 of the June 24, 2015 transcript and District Exhibits 1-2 demonstrate that the District had a clear policy against clocking in early; and

WHEREAS, the Employee repeatedly violated the policy and was reminded verbally and in writing that he must follow it (*see* pages 33-36 of June 24, 2015 transcript and District Exhibit 6); and

WHEREAS, the evidence demonstrates that the Employee clocked in early on May 1, 2014 and July 2, 2014 (*see* District Ex. 3); and

WHEREAS, the evidence demonstrates that the Employee failed to offer any rational explanation for his conduct; and

WHEREAS, the Hearing Officer found that the Employee was “clearly on notice” of the rules for clocking in early and failed to follow them; and

WHEREAS, Charge 1, Specifications 3 through 6 and Charge 2, Specification 1 relate to an incident between the Employee and his supervisor wherein the Employee threatened to leave work early, left his post to make a personal phone call (and despite the fact that customers were

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waiting in line), refused to comply with his supervisor's directive to advise whether he intended to remain at work and threatened his supervisor with the possibility of calling an attorney; and

WHEREAS, the Hearing Officer found that the Employee "must obey lawful orders from his supervisors...without any guff, lip, backtalk, or argument" (Decision at page 4); and

WHEREAS, the Employee admitted that he engaged in the conduct described in Charge 1, Specifications 4 and 6 (*see* pages 325, 326, 328 of June 25, 2015 transcript); and

WHEREAS, the Hearing Officer properly credited the supervisor's version of the story and rejected that of the Employee, who unlike his supervisor, did not prepare notes of the incident (*see* District Exhibit 4); and

WHEREAS, the record also demonstrates that the Employee had clocked out, without permission, long before the improper exchange with his supervisor, thereby demonstrating that he had no intention of remaining at work despite having not received permission to leave early (*see* District Exhibit 3 and page 356 of June 25, 2015 transcript); and

WHEREAS, the record demonstrates that the Employee's proffered reasons for his behavior were not credible and do not excuse it (*see* Decision at pages 5-6); and

WHEREAS, Charge 3, Specifications 1 through 7 relate to the Employee's failure to account for credit card, ticket book covers and cash as part of his cash register reports; and

WHEREAS, the Hearing Officer found that the Employee was "sloppy and careless" and, despite clear evidence to the contrary, declined to acknowledge his wrongdoing or errors (Decision at page 7); and

WHEREAS, the District, having reviewed the record, has found no indication that the Employee acknowledged his wrongdoing or errors; and

WHEREAS, the District is troubled that the Employee, without submitting any supporting evidence, sought to shift the blame by accusing another employee of, at best, removing and, at worst, stealing documentation and monies from his cash register drawer (*see* pages 314-316 of June 25, 2015); and

WHEREAS, the District rejects this excuse as irrelevant because the Employee was charged with failing to account for the documentation and monies and not with taking it; and

WHEREAS, the Employee's excuse demonstrates that he has failed to take responsibility for his incompetence; and

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WHEREAS, with regard to Charge 1, Specification 2, the District notes that the Hearing Officer's ruling excluded evidence that could have proved the allegations from being introduced into the record; and

WHEREAS, in considering the totality of the evidence, the Hearing Officer found that the Employee is not entitled to back pay and recommended that the Employee be terminated from his employment (Decision at page 8); and

WHEREAS, the record demonstrates that the hearing had been scheduled for December 10, 2014 and was adjourned at the Employee's request; and

WHEREAS, the record demonstrates that the hearing had been rescheduled for February 19 and 20, 2015 and was again adjourned at the Employee's request; and

WHEREAS, the evidence demonstrates that the Employee caused the hearing to be delayed; and

WHEREAS, the relevant case law supports the Hearing Officer's recommendation that, under the circumstances presented here, the Employee is not entitled to back pay; and

WHEREAS, the record further demonstrates that the Employee has engaged in a pattern of insubordination, misconduct and incompetence (*see* District Exhibits 5-6); and

WHEREAS, the Employee has failed to show any remorse for his behavior and instead attempted to create what were proven to be non-credible versions of the underlying facts (*see* Decision at page 5; *see, e.g.*, pages 309, 325-326, 328, 341-346 of the June 25, 2015 transcript); and

WHEREAS, the Employee was previously warned that he could be terminated if continued to engage in the behavior underlying the Charges (*see* District Exhibits 5-6); and

WHEREAS, the District credits the testimony of R.J. Burns that that, if returned to work, the Employee will continue to engage in that pattern because he has not learned from his misconduct (*see* pages 167-169 of the June 24, 2015 transcript); and

WHEREAS, the District further credits Mr. Burns' testimony that, if returned to work, the Employee will also detrimentally impact the District's business, customer service and workforce morale (*see* pages 155-156, 167-169 of the June 24, 2015 transcript); and

NOW, THEREFORE, BE IT RESOLVED, that the District adopts the Hearing Officer's Decision that the Employee is guilty of Charge 1, Specifications 1(aa) and (rr), 3, 4, 5, and 6; Charge 2, Specification 1; and Charge 3, Specifications 1 through 7 and not guilty of Charge 1, Specification 2; and

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BE IT FURTHER RESOLVED, that the District adopts the Hearing Officer's Decision finding that the Employee is not entitled to back pay; and

BE IT FURTHER RESOLVED that, effective October 12, 2015, the Employee is terminated for the reasons set forth in the Hearing Officer's decision and this Resolution.

Moved by: Commissioner Ahrens

Seconded by: Commissioner Bloethe

Ayes: All

Nays: None