

Minutes of the Work Session Meeting of the Mayor and Council, Borough of Keyport, held on the above date in the Borough Hall Council Chambers, Keyport, NJ, pursuant to the adoption of the Annual Notice on file with the Borough Clerk forwarded to the Asbury Park Press, the Independent, Two River Times and Newark Star Ledger and posted on the Bulletin Board in accordance with the Open Public Meeting Act, P.L. 1975, Ch. 231.

Mayor Aumack called the meeting to order at 7:00PM and Borough Clerk Heilweil read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Pacheco, Sheridan, Kennedy, Lamberson, Cooper and Goode. Others present: Mayor Aumack, Borough Administrator Stephen Gallo and Borough Attorney James Polles, Esq.

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

PROCLAMATIONS

Clerk Heilweil read the Hunger Action Month Proclamation.

Mayor Aumack read the National Preparedness Month Proclamation.

CONSENT AGENDA

(All resolutions listed hereunder are considered to be routine in nature and will be enacted in one motion. Any person may request that an item be removed for separate consideration.)

Clerk Heilweil read the items listed on the Consent Agenda.

R200-17 Payment of Bills

R201-17 Accepting the Proposal for Consulting Services – Wireless/Cellular Communications Consultant Made by FSD Enterprises, LLC and Authorizing the Award of Contract Regarding Same

R202-17 Authorizing Certain Change Orders Concerning the Purchase of a Ladder Truck for the Keyport Fire Department and Ratifying All Actions Relating Thereto

R203-17 Authorizing a Contract with CME Associates Relating to Professional Engineering and Sub-Consultant Architectural Services for the Department of Public Works Building, Block 1, Lot 34, Also Known as Rollo Place in the Borough of Keyport

R204-17 Authorizing the Execution of an Agreement with CGI Communications to Produce a Community Video Program to Promote the Borough and at No Cost to the Borough

R205-17 Appointing Clean Communities Coordinator of the Borough of Keyport – *Thomas Gallo*

R206-17 Hiring Per Diem Communications Operators – *Josephine Donohue & Justin Mulligan*

PUBLIC COMMENT PORTION

The Meeting was opened to the public for comments or questions on items listed on the agenda at 7:06PM moved by Sheridan, carried by Goode with ayes by all present

Mayor Aumack – requested **R202-17** Authorizing Certain Change Orders Concerning the Purchase of a Ladder Truck for the Keyport Fire Department and Ratifying All Actions Relating Thereto be considered separately.

Motion was made and carried to consider **R202-17** Authorizing Certain Change Orders Concerning the Purchase of a Ladder Truck for the Keyport Fire Department and Ratifying All Actions Relating Thereto separately.

George Walling, Second Street – asked for more information on **R202-17** Authorizing Certain Change Orders Concerning the Purchase of a Ladder Truck for the Keyport Fire

Department and Ratifying All Actions Relating Thereto.

Mayor Aumack – stated there will be opportunity for public comment when **R202-17** Authorizing Certain Change Orders Concerning the Purchase of a Ladder Truck for the Keyport Fire Department and Ratifying All Actions Relating Thereto is considered.

Mike Lane, 51 First Street – was happy to see 89 Broad Street getting cleaned up. He would like an explanation of why it took so long. He also asked about how the Flood Plain Manager will work the position. Our Engineer and Flood Plain Manager has not reviewed the applications before the Planning Board. Our former Construction Official was a Flood Plain Manager but Trevor Taylor, our Engineer, is now our Flood Plain Manager.

Administrator Gallo – explained when applications for development come to fruition, they will be reviewed by our Flood Plain Manager.

Mr. Lane – stated he brought flood plain issues to the attention of the Planning Board. Longview Boatworks has a set of plans approved by the Planning Board that does not meet the flood plain requirements. The bulkhead must be at the level of the fill. The developer needs to be coached appropriately. Most of the Borough is on an 18-19 foot bluff. Would like approvals to build at BFE+3.

Ed Burlew, 59 W. Front Street – stated Mr. Lane has so much knowledge. He asked whether the Planning Board members have as much knowledge. He thinks we should get Mr. Lane on the board.

Mayor Aumack – explained the Planning Board relies on our professionals who are at each Planning Board meeting.

Ed Burlew – asked about the charter boat lease bid opening.

Administrator Gallo – explained there was only one proposal received which was full of deficiencies.

Ed Burlew – also brought up that the electric in Keyport goes out several times a month. He contacted the electric company who said the Borough should write a letter if we are dissatisfied.

Elmer Graham, Jr., 22 St. Peters Place – asked for an explanation of **R201-17** Accepting the Proposal for Consulting Services – Wireless/Cellular Communications Consultant Made by FSD Enterprises, LLC and Authorizing the Award of Contract Regarding Same, which Administrator Gallo provided. Mr. Graham asked for an explanation of **R203-17** Authorizing a Contract with CME Associates Relating to Professional Engineering and Sub-Consultant Architectural Services for the Department of Public Works Building, Block 1, Lot 34, Also Known as Rollo Place in the Borough of Keyport, which Administrator Gallo provided and explained this resolution awards a contract to design a structure. Mr. Graham asked for an explanation of **R204-17** Authorizing the Execution of an Agreement with CGI Communications to Produce a Community Video Program to Promote the Borough and at No Cost to the Borough. Administrator Gallo explained this will be done at no cost to the Borough. Mr. Graham also asked about flags or banners around town which he had suggested at a previous meeting.

There being no further comments or questions the meeting was closed to the public at 7:31PM moved by Sheridan, carried by Goode with ayes by all present

APPROVAL OF RESOLUTIONS

Motion to approve items listed on the Consent Agenda, with the exception of **R202-17** Authorizing Certain Change Orders Concerning the Purchase of a Ladder Truck for the Keyport Fire Department and Ratifying All Actions Relating Thereto, moved by Goode, carried by Sheridan

Roll Call: Ayes: Pacheco, Sheridan, Kennedy, Lamberson, Cooper, Goode
Nays:
Absent:
Abstain:

Harry Aumack, III, came forward at the Mayor's request to explain the change orders for the ladder truck.

Harry Aumack, III – explained that some of these changes were safety items.

Council President Goode – asked under what authority were these changes ordered.

Harry Aumack, III – stated that he spoke with the Mayor. He was concerned that delivery of the truck would be delayed further if he waited for Council approval. He believes he protected the Borough by being sure the truck included things it had to have.

Administrator Gallo – explained this did not go out to bid.

Mayor Aumack – asked whether everyone forgot about Hurricane Sandy. He explained the truck now has a diesel-driven larger capacity generator.

Councilwoman Lamberson – questioned whether the specs asked for this larger capacity generator. Did the Council not vote on what was really needed?

Harry Aumack, III – stated he felt it made financial sense to upgrade the alternator.

Councilman Goode – asked why a remote start on the generator, as well as a 16-foot ladder on the aerial? The response was that it is for safety. He also asked about the suspension. The more Harry Aumack, III, explained the process, the less Councilman Goode liked Pierce. Councilman Goode stated the Fire Department spent money they had no authority to spend. He would like to hear the full explanation before Council makes a determination.

Administrator Gallo – stated the total amount is about \$27,000.

Councilwoman Lamberson – asked what is the Fire Department asking us to do today?

Councilman Goode – I assume they are asking the Borough to pay for it.

Dan Fox, Fire Chief – stated he was told by Administrator Gallo not to go over \$1,000,000; that it was free money.

Attorney Polles - explained the resolution this evening is authorizing a change order under the Bond Ordinance #11-16 for which the municipality bonded \$1,000,000. He just wanted to clear up that bit of testimony.

Dan Fox – explained there were two pre-payments which gave the Borough a discount.

Councilman Goode – the question really is “why wasn't the Council asked?”

Councilwoman Lamberson – stated going forward we can't have unauthorized decisions made.

Administrator Gallo – stated the people who make these decisions are the Borough Council. The only missing link is that these changes should have been presented to the Council at the time. The funding was approved for \$1,000,000 but there was no representation that this was free money.

Councilman Sheridan – feels it was a communication issue between the Fire Department and the Borough.

Mayor Aumack – explained while at the factory the Fire Department discovered things that were wrong with the truck.

Motion at 8:07PM to open the meeting to the public, moved by Sheridan and carried by Lamberson with aye by all present

George Walling – asked whether anyone was contacted besides the Mayor. He explained Keyport is a strong Council/weak Mayor form of government. He said the Mayor dropped the ball. At the Fireman's Fair, he would not like to see the American Flag hanging from the fire truck. He thinks it is a safety issue.

There being no further comments or questions, the meeting was closed to the public at 8:10PM moved by Sheridan, carried by Goode with ayes by all present

Motion to approve **R202-17** Authorizing Certain Change Orders Concerning the Purchase of a Ladder Truck for the Keyport Fire Department and Ratifying All Actions Relating Thereto moved by Goode, carried by Sheridan

Roll Call: Ayes: Pacheco, Sheridan, Kennedy, Lamberson, Cooper, Goode
 Nays:
 Absent:
 Abstain:

PUBLIC HEARINGS/ADOPTION OF ORDINANCE

1. Ordinance #12-17– Add Parcels to BID Ordinance

The Clerk read the Ordinance by Title: **ORDINANCE OF THE BOROUGH OF KEYPORT, COUNTY OF MONMOUTH, NEW JERSEY, AMENDING CHAPTER XXI, BUSINESS IMPROVEMENT DISTRICT, TO INCLUDE CERTAIN OTHER PARCELS**

1a. Motion to Open Public Hearing at 8:12PM moved by Sheridan, carried by Cooper with ayes by all present

Elmer Graham, Jr. – asked for an explanation which Administration Gallo provided.

Councilman Goode – this just adds commercial properties to pay money to the KBBC.

George Walling – asked if Council is happy with the BID.

Administrator Gallo – stated that has nothing to do with this ordinance but can be talked about at the next public comment portion.

Mike Lane – feels one cannot tell what is added.

Attorney Polles – instead of recreating the entire Schedule "B", this just amends the pertinent part.

There being no further comments or questions, the Public Hearing was closed at 8:17PM moved by Sheridan, carried by Goode with ayes by all present

1b. Motion to adopt Ordinance moved by Sheridan, carried by Goode

Roll Call: Ayes: Pacheco, Sheridan, Kennedy, Lamberson, Cooper, Goode
 Nays:
 Absent:
 Abstain:

- 1c. Motion authorizing the Clerk to publish the Ordinance as adopted moved by Sheridan, carried by Goode with ayes by all present

2. Ordinance #13-17– Clean Communities Coordinator Salary

The Clerk read the Ordinance by Title: **AMENDING AND SUPPLEMENTING ORDINANCE #1-17 FIXING THE SALARIES OF VARIOUS OFFICERS, CLERKS AND EMPLOYEES OF THE BOROUGH OF KEYPORT IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY**

- 2a. Motion to Open Public Hearing at 8:18PM moved by Kennedy, carried by Sheridan with ayes by all present

Seeing no one, the Public Hearing was closed at 8:18PM moved by Sheridan, carried by Pacheco with ayes by all present

- 2b. Motion to adopt Ordinance moved by Kennedy, carried by Sheridan

Roll Call: Ayes: Pacheco, Sheridan, Kennedy, Lamberson, Cooper, Goode
Nays:
Absent:
Abstain:

- 2c. Motion authorizing the Clerk to publish the Ordinance as adopted moved by Sheridan, carried by Pacheco with ayes by all present

APPROVAL OF MINUTES

Councilwoman Kennedy – requested August 8, 2017 Work Session Minutes be amended on page 3 to reflect a partial road closure was approved.

Motion to approve the August 8, 2017 – Work Session Minutes moved by Goode, carried by Sheridan

Roll Call: Ayes: Pacheco, Sheridan, Kennedy, Lamberson, Cooper, Goode
Nays:
Absent:
Abstain:

COMMUNICATIONS AND PETITIONS

1. Request from Keyport Fire Department to hold a 9/11 Memorial Service on American Legion Drive on Monday, September 11, 2017 at 7PM. Further requesting American Legion Drive be closed from 5:30PM-8PM on said date. All are invited.

Motion to approve, forward to Police Department, DPW, and place on electronic sign, moved by Goode, carried by Sheridan with ayes by all present

2. Email from Clean Ocean Action regarding the Fall 32nd Annual Beach Sweeps and confirming the Borough's participation on Saturday, October 21st, from 9AM-12:30PM. All are invited.

Motion to approve and forward to DPW and Environmental Commission, moved by Kennedy, carried by Sheridan with ayes by all present

3. Request for Use of Waterfront Park for the purpose of a wedding on Saturday, September 30, 2017 at 1PM

Motion to approve moved by Sheridan, carried by Pacheco with ayes by all present

4. Application for Raffle License from Jesus the Lord Church for an On-Premise 50/50 Cash Raffle to be held Sunday, October 29, 2017 from 1-5PM

5. Application for Raffle License from Jesus the Lord Church for a Tricky-Tray to be held on Sunday, October 29, 2017 from 1-5PM

Ray Kilroy – explained Jesus the Lord Church will remain in its location but will have some events with St. Josephs.

Motion to approve moved by Kennedy, carried by Sheridan with ayes by all present

NEW BUSINESS

None

UNFINISHED BUSINESS

None

ATTORNEY'S REPORT

Attorney Polles - looking into responses for a municipal aggregation agent.

ADMINISTRATOR'S REPORT

Administrator Gallo reported on the following:

- held a meeting regarding Fat Kat Tattoo property
- met with T&M Associates regarding plan review
- held a community meeting regarding Benjamin Terry and Veteran's Parks
- held a conference call with CGI regarding community promotional videos
- met with NJ American/Shorelands regarding the water treatment plan upgrade
- met with grant counsel
- interviewed candidates for Deputy Court Administrator
- met with a resident regarding volunteer opportunities
- held a meeting with Councilmembers Kennedy and Pacheco regarding Bike Share Program with Zagster, a company that provides such services
- held several meetings with Local 68
- met with Andy Raichle regarding marine and coastal issues
- held a meeting with a developer interested in Aeromarine
- **2016 Road Improvement Project** – most of the work associated with this project is complete. The only items remaining are the milling and resurfacing of the actual roadways which is scheduled to be completed this week. They had to let the excavations settle.
- **Benjamin Terry and Veteran's Parks** – we had a well-attended meeting regarding the upgrades to these two neighborhood parks. The citizens offered some good input which is being considered for inclusion in the plan.
- **FEMA Outfall Project** – we expect to be out to bid this month for the proposed outfall improvements
- **Brown's Point Redevelopment Plan** – a minor delay has setback our consideration of the agreements for this project until our second meeting in September.
- **Aeromarine Redevelopment Plan** – I met with a new company that has expressed an interest in developing the property for rental housing and a solar farm.
- **Longview/Boatworks Redevelopment Plan** - I've yet to be able to hook up with the attorney for this project to determine what is going on.
- **Ye Cottage Inn** – the applicant participated in a technical review committee meeting where we discussed the project with our professionals and assisted them in making a clean application. Our Planner and Engineer are negotiating the plan at this time.
- **W. Front Street Fire Scene** – the owner of this property has a concept plan for a new apartment building at this location. We are encouraging them to come to a TRC meeting to discuss.
- **Mr. Green Tea** – I met with Mr. Emanuele recently and he is still pursuing the purchase of the Manchester property. He expressed his frustration in not being able to close a deal.

- **Bike Share Program** - we met with Zagster last week to discuss how we could get a bike share program in Keyport following their launch in Asbury Park. Unfortunately, they threw us a curve ball regarding annual reoccurring fees. I'm exploring alternatives with lower costs.
- **Movie Nights** – one more movie is scheduled with the presentation of Pokémon Movie on Friday the 22nd. We are in discussion with the BOE about hosting a monthly movie night at the schools.
- **Broad and Third Streets** – much progress has been made regarding the cleanup of this property. We are hopeful that it will be completely remediated by the end of the month.
- **Vacant Properties Task Force** – this project will work with a committee of volunteer citizens and our professionals to deploy strategies to move vacant and derelict properties back into productive use.
- **Waterfront and Harbor Improvements** – I met with our Marine and Coastal Engineer to discuss strategies to dredge the harbor, improve the boat ramp, deploy additional concessions on the waterfront, build a dock and dine, install transient moorings and deal with the lone boat dock issue. A white paper is being prepared to develop a comprehensive project and then we need to find grant funds.
- **Complete Streets Initiative** – I expect to establish a complete streets program to examine the issue of pedestrian/bike/motor vehicle safety and parking issues, develop strategies to make Keyport more walkable and pedestrian and bike friendly, as well as safer and cleaner.

Councilman Goode – asked about getting a crossing guard at the corner of 7th and Green Grove.

PUBLIC COMMENT PORTION

The Meeting was opened to the public for comments or questions at 8:35PM moved by Sheridan, carried by Pacheco with ayes by all present

George Walling – asked if anyone on Council takes a look at the KBBC website. Not one of the 17 vacant properties are listed on its website. Only Gales is listed. He feels they are taking a lot of money and they are terrible. He believes they need to be held accountable.

Councilwoman Kennedy - stated she believes there has been improvement and they are reaching out to resources they didn't have before. If business owners are upset, they have a voice.

Elmer Graham, Jr. – stated he sees cars running the stop sign on both ends of St. Peters Place. He suggested having an unmarked police car at each end of St. Peters Place when children are going to school.

Andrew Kelsey, 29 St. Peters Place – confirmed KBBC was by created Council so he feels Council has a responsibility to pressure them to improve.

Ed Burlew, 59 W. Front Street – said when the KBBC was the KBA nothing could be done without Council approval. He asked if business owners gather up enough people can they make changes without Council approval.

Administrator Gallo – if there are continuing concerns with the KBBC, we should listen to them.

Ed Burlew – said he doesn't mind paying but thinks we need something better.

Councilwoman Kennedy – explained filling vacancies is not the job of the KBBC but the job of the realtors. She also mentioned how Movie Nights have been well-attended with people eating from local eateries, which has helped all restaurants.

Ed Burlew – he doesn't see any realtor signs in any of the commercial store windows.

Dennis Fotopolous, 77 Beers Street – thanked Councilwoman Kennedy for her fact-based comments. He thinks it is the Council's responsibility to market Keyport. He also offered his help with promoting Keyport.

Mike Lane - spoke of the generator on the fire truck for the purpose of a storm. He wonders why the school cannot find a grant to purchase a generator. He thinks this is an opportunity since this is National Preparedness Month. Professional planners do write a report of Planning Board applications, but they mostly talk about zoning, not whether or not it is in a flood hazard area.

Administrator Gallo – pointed out that everyone has good suggestions. We want to hear from the public.

Mike Lane – stated Councilman Sheridan has scheduled a Hurricane Preparedness meeting for September 19th. He hopes it is not a retrospective meeting.

Administrator Gallo – announced we are in the process of reviewing the Technical Review Committee process.

There being no further comments or questions, the meeting was closed to the public at 9:03PM moved by Sheridan, carried by Goode with ayes by all present

Motion at 9:04PM moved by Sheridan, carried by Lamberson for a five-minute recess before the disciplinary hearing

DISCIPLINARY HEARING/APEAL OF ACTION

Motion to reconvene at 9:13PM moved by Sheridan, carried by Cooper with ayes by all present

Mayor Aumack turned the Hearing over to Administrator Gallo

Leslie London of McManimon, Scotland & Baumann – Borough Labor Counsel – stated this Disciplinary Hearing is being held at the request of Carol Fox in response to a Notice of Disciplinary Action governed by N.J.A.C. 4A:4-2.2 Civil Service Regulations.

Ms. Fox is being represented by the Local 68 Union Representative, Sal Costanza. She has the right to appeal any decision to the Civil Service Commission. Testimony will be given. There are Borough Exhibits 1 through 13.

This is an Administrative Disciplinary Hearing. There will be no public comment. We are only addressing items in the Preliminary Notice, not prior incidents.

First Witness: Borough Administrator Stephen Gallo, who was sworn in by Borough Attorney Polles.

Administrator Gallo was asked if he handles all personnel issues – "I do."

Exhibit B-1a – Preliminary Notice of Disciplinary Action, is identified

Charges are:

- Incompetency
- Inefficiency or Failure to Perform Duties – N.J.A.C. 4A:2-2.3

Administrator Gallo – stated on Wednesday, July 26, 2017, at 6:35AM, Ms. Fox left her shift without proper relief. Protocol was not followed. There have been issues with chronic absenteeism without medical documentation.

Sal Costanza, Union Representative – stated he only wants to address the situation of July 26, 2017.

Borough Attorney Polles – stated objection will be noted. The Borough does need to show all disciplinary actions in the case of an appeal.

Leslie London – stated prior disciplinary actions were stated in the event that there is a decision to terminate.

Administrator Gallo – spoke of her excessive absenteeism. Chapter 3, section 5.8 describes the duties of a Communications Operator. Paragraph a.2. states dispatcher must be properly relieved.

Attorney Polles – noted that Ms. Fox left the room (9.27PM).

A comment from the audience (Mr. Fox) was made that there was no Rice Notice

Leslie London – explained this hearing was requested by Ms. Fox so there would be no Rice Notice required. It is mixing apples and oranges.

Administrator Gallo – continued to testify. Section 3.2-7 of the Manual of Police Department Rules and Regulations were violated. He stated the record of attendance back to 2012 shows excessive absenteeism. In 2017, there were 22 sick days taken apart from vacation and personal time. There was a period of time in February-March where she went out for stress-related issues. There was no doctor's note provided so it could not be taken as sick time. Sick days were returned and, as soon as they were returned, they continued to be used. He recommends termination due to a clear pattern of neglect of duties and chronic absenteeism. In this instance, an employee left her post and has not provided a reasonable explanation as to the reason why. No one was available to answer the Police Department phone. The ordinance is clear in that if the dispatcher needs to be relieved, she shall have the opportunity to assign a member of the Police Department to assume charge.

Sal Costanza – asked what the shift hours are.

Administrator Gallo – replied 7 to 7.

Sal Costanza – stated that it is from 6:30 to 6:30. He mentioned Exhibit B-12, Police Department duty sheet of July 25, 2017.

Administrator Gallo – stated he is not aware that starting time is 6:30. The duty sheet reads 7:00.

Exhibits B-6 to B-12, statements of police officers, are identified

Attorney Polles – stated officers are present and available to testify as to the specifics of the report.

Sal Costanza – asked if Ms. Fox was ever noticed of progressive discipline regarding her absenteeism. Administrator Gallo replied "yes."

Administrator Gallo – stated the employee was absent from work for a stress-related issue. No doctor's note was ever provided. Medical documentation is required upon return to work for more than three sick days taken in a row.

Sal Costanza – said he feels he wasn't even given the opportunity of an opening statement. He would like to be able to call Mr. Gallo back to the stand, but would like to hear the testimony of the Police Officers at this time.

Leslie London – asks Administrator Gallo to look at Exhibit B-3c to advise whether there are any notices to Ms. Fox regarding excessive absenteeism.

Administrator Gallo – stated the dates where Ms. Fox was verbally warned about her excessive absenteeism including several written memorandums documenting sick time abuse.

Leslie London – so Ms. Fox's statement of not being warned of excessive absenteeism would be incorrect?

Administrator Gallo – yes.

Leslie London - asked the status of the workman's comp claim.

Administrator Gallo – we have not heard anything further.

Leslie London – are there are other employees with this amount of excessive absenteeism?

Administrator Gallo – not at this level, no. The concept of progressive discipline is employed when practical.

Sal Costanza – asked Administrator Gallo if he is aware that most of these absences were approved; leaves of absence and FMLA.

Administrator Gallo – In the current example this year, there still is no explanation.

Sal Costanza – does not feel days where Ms. Fox was disciplined and suspended should not be counted as absences.

Attorney Polles – directed Mr. Costanza to ask questions of Mr. Gallo and not to simply provide commentary.

Exhibit B-3c, letters on absenteeism, is identified

Administrator Gallo – the discipline is for absenteeism this year.

Attorney Polles – there are a specific number of days being litigated in a separate action.

Administrator Gallo – she has been out 22 days this year.

Capt. Hafner was called up and sworn in to testify. He stated his work history with the Borough and his responsibilities as Captain.

Exhibits B-4 through B-13, and B-2c, were provided by Ms. London to Capt. Hafner. Ms. London directed the Captain to look at Exhibit B-2c. SOP Prisoner Management (page 15 of 18) - detention log documenting record of confinement

Capt. Hafner – read duties to check prisoners and affirmed Ms. Fox violated her duties when a prisoner, under her watch, attempted to commit suicide by hanging, and she was unaware. He also spoke of her violation on July 26th when she left early without someone to relieve her, leaving the phones unattended.

Leslie London – requested the Captain look at Exhibit B-4, a written explanation from Carol Fox dated 7/28/17, stating this is more harassment from Chief Casaletto and that she would be contacting her attorney. She did not give an explanation as to her actions until Monday the 31st, after the weekend.

Capt. Hafner received statements from other employees in the Police Department which he forwarded to the Borough Administrator.

Spoke to Ptlm. McCartin as to whether the phone was ringing.

The shift is technically 7 to 7, but typically relief comes in between 6:30 and 6:45.

Leslie London – was the violation the fact that she was not relieved? Correct.

Capt. Hafner – time sheets state 7AM to 7PM but that may not be the exact hours.

Leslie London – the notice that was issued recommends termination. Do you agree with that recommendation?

Capt. Hafner – I don't like to see anyone terminated.

Leslie London – let me ask differently, is termination justified based on the facts?

Capt. Hafner – yes.

Sal Costanza – introduced Exhibit U-1 (schedule) which the Police Department made copies of since he only had one copy.

Attorney Polles – requested Mr. Costanza only ask the Captain what he knows, not what he believes other officers know.

Councilmember Kennedy – on the SOP, she wants the record to show page 15 and 16.

Councilmember Cooper – confirmed with the Captain that one should not leave her post until properly relieved, correct?

Capt. Hafner – yes.

Attorney Polles – may the Captain be relieved? Yes. Are there any further questions? No.

Patrolman Christopher DeGroat was called to testify and was sworn in by Attorney Polles.

Patrolman DeGroat – has been with the Borough approximately three years. Started working at approximately 6:30AM on July 26th. He stated he saw Ms. Fox in the parking lot behind Police Headquarters at that time. She left the building, got into her car and drove away. He stated his relationship with Ms. Fox is good.

At 10:48PM, Ms. Fox again left the room. Attorney Polles gave a three-minute recess. Reconvened at 10:54PM.

Patrolman DeGroat testimony continued

Sal Costanza – asked who prepared the schedule?

Patrolman DeGroat – the Chief.

Sal Costanza – you thought you would be on patrol when you came in at 6:30AM? Yes.

The Sergeant informed DeGroat there was no dispatcher so he covered the desk. There was a prisoner in the cell.

Sal Costanza – how many times do you sit at the dispatch desk?

Patrolman DeGroat – not very often.

No questions of Patrolman DeGroat from Council.

Attorney Polles – are there any objections to releasing Patrolman DeGroat? No.

Sergeant Steven Dixon came forward to testify and was sworn in by Attorney Polles.

Sgt. Dixon – was hired as a special officer in 1992 and a regular officer in March 1994. He came in that day between 6:30AM-6:35AM as he normally does.

Pointed out Exhibit B-9, response to an email from Capt. Hafner, requested by Capt. Hafner

Sgt. Dixon - read his emailed statement to Capt. Hafner. There was nobody at the dispatch desk when he came in that day. Sgt. Salvatore advised there was no dispatcher, as well as the fact that there was a prisoner in the cell. He had a full shift but did not want an officer to sit at the desk. The most junior officer covers the dispatch desk when there is no dispatch.

Sal Costanza – asked several questions of Sgt. Dixon.

Councilmember Cooper – confirmed Sgt. Dixon's shift is 7AM-7PM and that Police Department employees come in fifteen minutes early.

Councilmember Goode – is it a violation if someone comes in at 7AM? No.

Councilmember Sheridan – how important is the turnover and information exchange?

Sgt. Dixon – it's very important. In this case, I would have to have the desk covered, as well as figure out how to transport the prisoner.

Leslie London - is it your understanding that whoever is at the desk must be relieved, whether it is a dispatcher or an officer? Yes.

Sgt. Dixon – in order for a dispatcher to use the restroom, they must get relief.

Sal Costanza – asked whether Ms. Fox should be terminated?

Sgt. Dixon – stated he doesn't like to see anyone terminated.

Sal Costanza – do you believe Ms. Fox left the desk unattended? Yes.

Attorney Polles – does anyone have any objection to releasing Sgt. Dixon? No.

Patrolman Robert McCartin was called to testify and was sworn in by Attorney Polles.

Patrolman McCartin – stated he has worked for the Borough of 19 years. On that day he arrived at approximately 6:25AM. He saw Ms. Fox that morning sometime between 6:30AM and 6:40AM. Ms. Fox walked by the office and said "goodnight."

Exhibit B-8, Statement to Capt. Hafner, was read by Patrolman McCartin

Patrolman McCartin – noticed there was no dispatcher about 6:40AM when he came in to sign the book.

Sal Costanza – asked what his shift is; 7AM to 7PM.

Patrolman McCartin – stated the purpose of coming in within that half hour earlier is to adequately inform the incoming staff about the outgoing shift.

Sal Costanza – where was Carol when you came in?

Patrolman McCartin – she was at the dispatch desk.

Sal Costanza – did anyone instruct you in your statement to write there was a prisoner in the cell?

Patrolman McCartin – No.

Councilmember Goode – in your 19 years in the department, have you ever seen it unmanned?

Patrolman McCartin – No, never had that incident happen in all my years here.

Patrolman McCartin was released

Patrolman Robert Hassmiller was called to testify and was sworn in by Attorney Polles

Patrolman Hassmiller – stated he has worked for the Borough for three years. He worked the 7AM to 7PM shift. He doesn't know the exact time Ms. Fox left that day but remembers saying goodbye. He read the statement he prepared for Capt. Hafner. He observed her leaving and noticed no one was in the communication center. He had arrived at 6:30PM the night before.

Sal Costanza – do you think what she did deserves termination?

Patrolman Hassmiller – stated he has no business to determine someone else's fate. As a junior officer, he is not involved with dispatch scheduling and as never had any problems with Ms. Fox personally as a dispatcher.

Councilmember Lamberson - on those occasions when you do come in and work the dispatch desk, are you briefed on the activities of the prior shift? Yes.

Councilmember Sheridan – have you ever taken over the desk with a prisoner in the cell? Yes.

Patrolman Hassmiller – I do need to know how that prisoner is acting. If no one is in that front room, we don't have a visual of the prisoner.

Sgt. Matthew Salvatore was called to testify and was sworn in by Attorney Polles

Sgt. Salvatore – stated he has worked here for 21 years. On the day in question, he worked 6:30PM-6:30AM. He saw Ms. Fox as she was leaving around 6:35AM. She said "goodnight" and he said "goodnight, Carol." He assumed someone was at the desk when she was leaving because that is the normal procedure.

Exhibit B-6 is identified as a report by Sgt. Salvatore which he read aloud

Sgt. Salvatore – stated he believes Ptlm. McCartin told him the telephone was ringing but he does not recall the phone ringing in the dispatch area. Ptlm. DeGroat was then assigned to the desk. He would call the Chief or the Capt. to get authorization to fill the shift.

Sal Costanza – asked if he acknowledged Ms. Fox was leaving? Yes.

Sgt. Salvatore – stated Ms. Fox is a very good dispatcher. He does not think she should be terminated. He is unaware of any dispatcher leaving without having their shift covered.

Councilmember Kennedy – asked how long the prisoner had been in the cell?

Sgt. Salvatore – the Chief initially asked for a report and he then received communication that everything should be forwarded to Capt. Hafner.

Leslie London – asked is it a violation to leave without proper relief? Yes.

Sgt. Salvatore was excused at 12:01AM 9/6/17

Attorney Polles – asked Sal Costanza how long he believes he will be?

Sal Costanza – stated he only has one witness, Carol Fox.

*A five-minute break was called at 12:03AM
Reconvened at 12:09AM*

Sal Costanza – needs clarification of Exhibit B-11 written by Chief Casaletto.

Leslie London – she does not have a problem striking Exhibit B-11 since Chief Casaletto has left the room.

Sal Costanza – he does not want Exhibit B-11 stricken. Ms. Fox wants Chief Casaletto to testify.

Dispatcher Mary Gillard went to get Chief Casaletto

12:13AM – Chief Casaletto took the stand and was sworn in by Attorney Polles

Sal Costanza – asked the Chief to describe his position.

Chief Casaletto – stated he has been here 35 years and has been the Chief for approximately 7 years. He read his August 17, 2017 report filed at Capt. Hafner's request. He stated Ptlm. McCartin called out Carol's name and asked where she was when he went to sign in the book.

Sal Costanza – asked whether Carol said goodbye, which other officers confirmed she did.

Chief Casaletto – confirmed she did say goodbye, but it was assumed she was relieved. Stated at first he refused to allow an officer be called in but that was before he knew there was a prisoner to transport.

Leslie London – had no questions.

Councilmember Goode – did you make a request for a report?

Chief Casaletto – stated he had Sgt. Salvatore make the request because the Chief is not to have contact with Carol Fox due to their recent issues. He arrived at 6:30AM that morning. The dispatch door was closed.

Councilmember Lamberson – the half hour before the shift starts is when the next shift is briefed.

Councilmember Kennedy – did you come in that day to do payroll? Yes. She asked about Exhibit B-2c – SOP Manual. This was an updated SOP.

12:32AM – No further questions of the Chief

Carol Fox was called forward and sworn in

Carol Fox – testified she has been a dispatcher here for 13 years. She admitted she has received what she called "pattern letters," but there was no discipline for absenteeism. She stated she came on shift the night before at 6:30PM and left close to 6:40AM that morning. She recorded it to the log when the prisoner came in. She knew dispatcher Gallagher was on vacation. She heard Sgt. Dixon inform Ptlm. McCartin of a lack of a dispatcher and that there was a prisoner in the cell. She said dispatcher Gallagher has left early when Carol was her relief because Ms. Gallagher's taxi was there. She said Sgt. Salvatore told her to make a report as to why she left early. She said Sgt. Salvatore stated "please don't shoot the messenger." She stated this was only a problem because Chief Casaletto was in that morning. She assumed Ptlm. McCartin

was going to cover the dispatch desk. She was told the Chief wanted an explanation as to why she left her post.

She stated the Chief has written that only proactive shifts will get coverage. She said it was not written in the book that Debbie was off. This happened Wednesday morning but nothing was mentioned to her until Friday. The charges were not brought for 33 days. She says she had another job lined up, she was going to voluntarily leave, but Chief Casaletto called her new job to tell them not to hire her.

No questions from Ms. London

Councilmember Goode – asked how relief normally happens.

Carol Fox – usually the relief comes to the dispatch room. She felt her relief was there since she knew there was no dispatcher coming and the officers were talking. She believes this is being orchestrated by the Chief. She said no residents or fellow employees have ever had issues with her. She believes the Captain is recommending termination because he wants to be promoted to Chief.

Councilmember Sheridan – asked if it would be out of the ordinary to check that your relief was there? Yes.

Councilmember Lamberson – mentioned Carol being out in 2016 for a kidney donation. The Borough granted 80 hours of sick time after all her sick time she had was used up.

Carol Fox – stated dispatcher Gallagher leaves when her cab arrives, even if it is early, and is never disciplined.

Councilmember Cooper – asked why she didn't tell Sgt. Salvatore that she was leaving.

Carol Fox – she says she said "goodbye" to Sgt. Salvatore when she was leaving.

Councilmember Kennedy – stated that Carol had said it was a one-time oversight. What then was the oversight?

Carol Fox – stated she thought Ptlm. McCartin was to be her relief but it was actually Ptlm. DeGroat who she now knows was in the parking lot.

Councilmember Goode – have you ever been relieved after 6:45?

Carol Fox – on a couple of rare occasions.

Councilmember Sheridan – do you recall the comments you wrote about the prisoner on that occasion?

Carol Fox – No.

Councilmember Sheridan – would you have needed to advise your relief about the prisoner?

Carol Fox – felt the comments in the book would have given information about the prisoner. She doesn't recall what she wrote about the prisoner that day but it was written in the log.

No further questions from Ms. London or Mr. Costanza

Closing Statements

Leslie London – Borough Ordinance 3-5.8 is very clear. Failure to perform is serious. This is not the first time Ms. Fox has neglected to observe a prisoner. Dispatcher has to be affirmatively relieved and a briefing must be done. This was not done. She repeated the same action she was cited for in 2013. In previous disciplinary events she has deflected. The Borough has sufficient grounds to terminate Ms. Fox. Protocol was not followed. The onus is on the dispatcher.

Sal Costanza – Ms. Fox has been employed here 13 years. All of her absenteeism has been documented by doctors. He feels the Borough has not properly handled this situation. The Chief is penny-pinching by not hiring coverage for that uncovered shift. He feels the schedule should have been pre-arranged. He feels Carol should not be penalized but it should be the person who schedules the shift. He agrees some type of suspension may be in order but not termination. He believes that Civil Service will not uphold a termination because it should be progressive discipline. She has only been disciplined twice, once for two days and another time for five days. Management failed to provide coverage. She has never neglected her job. He suggests some sort of progressive suspension [sic].

Attorney Polles – Mayor and Council will not be taking any action on this at this time. A written decision shall be made within 20 days.

Carol Fox – wants a decision this evening. She is not being paid after today.

Attorney Polles – we are not going to have a rushed decision. He asks for case law as to why she should continue to be paid.

Carol Fox – doesn't believe there is anyone up there who doesn't know what their decision is.

Sal Costanza – suggested she return back to work.

Attorney Polles – I don't think a return to work is appropriate.

Mayor Aumack – announced it is 1:35AM. Going to ask Council for a Motion to Adjourn.

Carol Fox – earns \$17.82 an hour for 84 hours each pay period.

Councilmember Lamberson – we allowed people to leave the room who gave testimony that conflicts with other testimony we have heard tonight. Now we have to make a decision.

Motion made by Councilmember Goode to continue the suspension with pay for the next 14 days, until the next meeting, carried by Councilmember Pacheco

Roll Call: Ayes: Kennedy, Sheridan, Pacheco, Lamberson, Cooper, Goode
 Nays:
 Absent:
 Abstain:

Attorney Polles – asked if Mr. Costanza had any objection to Exhibits B-1A-13

Exhibit U-1 from Mr. Costanza – same was asked of Ms. London

At 1:41AM, Wednesday, September 6, 2017, Motion to Adjourn moved by Sheridan, carried by Goode with ayes by all present

ADJOURNMENT

Motion to Adjourn at 1:41AM moved by Sheridan, carried by Goode with ayes by all present