

**MINUTES OF THE
EXECUTIVE SESSION OF OCTOBER 28, 2011**

WATER COMMISSIONERS PRESENT:

Mr. Robert L. Burnham, Chairman
Mr. William R. Erickson, Water Commissioner
Mr. John S. Lovewell, Water Commissioner

EWD STAFF PRESENT:

Mr. Shane A. Ben David, Foreman
Mr. Fred R. Domont, Water Superintendent
Mr. Thomas W. Hermann, Water Operator II
Mrs. Pia Webster, Administrative Assistant

EXECUTIVE SESSION:

The Board of Water Commissioners entered Executive Session at 11:19 a.m. on Friday, October 28, 2011, having opened their Special Meeting at 11:00 a.m., at the Edgartown Water Department Office, Fifty-Eight Kavanagh Way, Edgartown, Mass. The Executive Session had been called to discuss the disciplining of an employee. Water Operator II Thomas W. Hermann, who had received a Letter of Reprimand dated October 20, 2011, had requested the session.

Chairman Robert L. Burnham read into the record the Letter of Reprimand, which was signed by Superintendent Fred R. Domont and Foreman Shane A. Ben David. At the bottom of said letter was an Employee Acknowledgment signed by Mr. Hermann.

According to the letter, the disciplinary action in question had stemmed from Mr. Hermann's "failure to perform the functions of [his] position appropriately. These functions include appropriately transferring sodium hydroxide from the storage tank to the day tank." During routine duties at the Wintucket Pump Station, a valve had been left open, resulting in "chemical overflow, lack of station service and the hiring of professional services for the chemical disposal and cleanup, costing the Water Department undue expenses."

The letter described how Mr. Hermann had received verbal counseling for an earlier offense of the same sort. "As a result of this incident, there will be a suspension of your duties without pay for five (5) days," the letter ended.

Mr. Hermann had written a letter to the Superintendent and the Foreman in response, dated October 25, 2011, which the Commissioners took some time to read. Mr. Hermann's letter argued that "[t]he checking of the station on Friday, September 30, was executed in accordance with the procedure typically used by the water operators at the Edgartown Water Department – one operator checks the feed tanks while the other updates the charts." Mr. Herman contended that he had performed his station duties responsibly, updating the charts, while Water Operator I Eric Hathaway checked the feed tanks. He noted that the pair of water operators who usually did stations were not at work that day.

Mr. Hermann's response continued that in his 21 years of service at the Department there had "never been a disciplinary action as severe as a suspension without pay issued for other incidents such as this one. This disciplinary action was issued without prior oral or written reprimand and without warning for such severe consequences."

Mr. Hermann's letter concluded with a request that the disciplinary action in question be reduced to a Letter of Reprimand, foregoing the suspension of duties and wages.

The Chairman asked Mr. Hermann if he had anything more to say. Mr. Hermann answered, "I was just *with* Eric [Hathaway], and Eric was the one who forgot to close the valve." Chairman Burnham turned to the others and said, "Everyone is aware that there were *two* people at the station." "Maybe we're talking to the wrong person," suggested Water Commissioner John S. Lovewell. Chairman Burnham explained that the person who had actually opened the valve had taken the punishment without objection.

Foreman Ben David provided more background, relating that on Friday, December 4, 2009, Messrs. Hermann and Hathaway, the same pair of water operators, had gone out to do the stations. "*Both* men are responsible," he stressed. The next day, when the Foreman had gone to do Saturday stations, he had noticed that the tank valve had been left open. "I called in *everybody* and warned *everybody* about complacency about stations," Mr. Ben David said.

"It's a responsibility for *both* of them," the Foreman repeated. "On September thirtieth the *same thing happened*. It's the responsibility of the *two* of them."

Water Superintendent Domont related that after the 2009 incident, the Department was on the hook for not only the cleanup expenses but also for the cost of installing a button at each station that the operator was supposed to push to prevent such an accident. "Which we were unaware of," remarked Mr. Hermann. Mr. Domont responded, "You're a really good operator, aren't you."

Foreman Ben David went through the steps of what ensued when a chemical spill occurred at a station. This particular spill, he related, would entail an invoice of more than \$10,000 from Clean Harbors Environmental Services; about \$1,800 worth of sodium hydroxide to replace what had been spilled, plus transportation costs of over \$700 for the

ferry. So in the end the two accidents will have cost the Department around \$27,000. “I think this [punishment] is fair,” the Foreman declared. The Superintendent commented that a private water company would have fired both operators.

Chairman Burnham inquired whether the SCADA system should have notified the Department of the accident. Mr. Ben David answered that the SCADA system did not yet cover the tanks. “But if they were both paying attention, this would not have happened,” he said.

Mr. Hermann related that he and Mr. Hathaway did stations only once a month on weekends and very occasionally during the workweek; generally, the two of them did meter repairs and on-off service. “Phil [Levesque] and Ralph [Case] usually do them,” he said. “But you understood what you were supposed to do?” asked the Chairman. Mr. Hermann nodded, then added, “I believe a five-day suspension is too much.”

“You understand the severity of your actions?” Chairman Burnham wanted to know. Water Commissioner William R. Erickson inquired, “Were lessons learned?” Before Mr. Herman could answer, the Foreman declared, “You were warned in 2009! ... It’s complacency! ... If you open something, you need to close it. I think it was complacency.”

“You say you’re not familiar with stations,” said Superintendent Domont, who then pointed out that Mr. Hermann had been a Water Department employee for more than 20 years. “You’re a certified water operator,” he stressed. “I don’t know how many times I’ve said, the most important part of your job is stations.” He had emphasized before, he recounted, that the two men on station duty were to operate *as a team*, thereby providing the Department with double protection against accidents. Mr. Domont concluded, “A week without pay is a moderate disciplinary action ... Sodium hydroxide is a very, very caustic chemical.”

The Chairman wanted to know what the maximum suspension allowed was. “Twenty days,” replied Mr. Ben David. “He could actually be fired,” said Mr. Domont. “And if there’s another incident?” asked Mr. Erickson. “Termination,” answered the Superintendent.

Mr. Lovewell confirmed with the Chairman that Mr. Hermann was, in fact, trained to do stations and had done them before. He raised the possibility that termination *was* the appropriate penalty in this particular case. “Tom [Hermann] thinks the penalty is *too severe*,” said Mr. Domont to Mr. Lovewell. “I don’t think it’s too severe,” said Mr. Lovewell. Mr. Erickson echoed this sentiment: “I don’t think it’s too severe because of the damage that was done.”

The Superintendent observed that whatever happened from here on out was up to Mr. Hermann. Mr. Erickson hoped that the water operator had learned something from this experience. “I am fine, and I’ll take my suspension,” said Mr. Hermann. “I just wanted to say I thought it was too severe.”

There being no further business, Chairman Burnham asked for a motion to adjourn. Mr. Erickson made a motion to adjourn, seconded by the Chairman. The motion carried unanimously by voice vote, and Chairman Burnham adjourned the Executive Session at 11:56 a.m.

Respectfully submitted,

Pia Webster
Administrative Assistant

APPROVED:
BOARD OF WATER COMMISSIONERS
TOWN OF EDGARTOWN

Robert L. Burnham, Chairman

William R. Erickson, Water Commissioner

John S. Lovewell, Water Commissioner