

**MCPHILLIPS, FITZGERALD, MEYER & MCLENITHAN**

**ATTORNEYS AT LAW**

288 GLEN STREET - P. O. BOX 309

GLENS FALLS, N. Y. 12801

PHONE (518) 792-1174

GERALD P. MCPHILLIPS (1927-1981)

JAMES GIBSON  
COUNSEL

HUDSON FALLS OFFICE

85 MAIN STREET

P. O. BOX 368

HUDSON FALLS, N. Y. 12839

PHONE (518) 747-4101

OUR FILE NO.

BERNARD F. MCPHILLIPS

MARTIN A. MEYER

RICHARD E. MCLENITHAN

JOSEPH R. BRENNAN

DENNIS J. PHILLIPS

WILLIAM E. FITZGERALD

JAMES E. CULLUM

BERNICE MCPHILLIPS

THOMAS E. SISE

JAMES D. HORWITZ

October 25, 1982

Leonard J. King, Mayor  
Village of Fort Edward  
118 Broadway  
P.O. Box 345  
Fort Edward, NY 12828

RE: Village of Fort Edward against Jon Roberts

Dear Mayor King:

I am enclosing herewith my report and recommendations regarding the disciplinary hearing recently had with respect to Jon Roberts.

As you and the other members of the Board are aware, Officer Roberts had a full hearing in which he was given the opportunity to cross-examine those witnesses against him. Officer Roberts was represented by John McMahon of Saratoga.

If there are any questions regarding the contents of the report, please do not hesitate to contact me.

Very truly yours,

MCPHILLIPS, FITZGERALD, MEYER & MCLENITHAN

  
Bernice McPhillips

BMcP/ec  
Enc.

**RECEIVED**  
Village of Fort Edward  
VILLAGE CLERK

OCT 26 1982

---

In the Matter of the Proceeding  
Commenced by LEONARD J. KING,  
Mayor of the Village of Fort  
Edward,

HEARING OFFICER'S REPORT  
AND RECOMMENDATIONS

-against-

JON ROBERTS Under Section 75 of  
the Civil Service Law.

---

STATEMENT OF FACTS AND PROCEDURE

This proceeding was brought by the Village of Fort Edward against Jon Roberts, an employee of the Village of Fort Edward Police Department pursuant to Section 75 of the Civil Service Law of the State of New York. By appointment of Leonard J. King, Mayor of the Village of Fort Edward of August 19, 1982, the undersigned was appointed Hearing Officer pursuant to Section 75 of the Civil Service Law to hear the charges against Officer Roberts and the defense thereto. The following is a submission of my report and recommendations to the Village Board for its review and decision.

The hearing was held at the Village Hall located at 118 Broadway, Fort Edward, New York on September 20, 1982. Appearing for the Village was Lawrence E. Corbett, Village Attorney and for Officer Roberts, John McMahon, Esq. Also present were Jon Roberts and Mayor Leonard J. King. By letter from Mayor King of August 24, 1982 Officer Roberts was notified that charges were preferred against him alleging conduct unbecoming an officer. Upon service of the notice on Officer Roberts, he was suspended without pay for a period not to exceed thirty (30) days.

Two specific charges were cited as the basis for the disciplinary hearing alleging that the actions on the part of Officer Roberts were in violation of Articles 1.02

It is my recommendation that the charge against Officer Roberts with relation to the incident in July of 1981, be sustained. It is further my recommendation that a written reprimand is warranted concerning this charge, and that the reprimand is to be placed in Officer Roberts' personnel file. In view of the fact that there was no Police Chief at the time of the incident nor was there a clearly defined chain of command within the Department, I feel that a reprimand is the appropriate penalty.

With reference to Charge No. 2, there is conflicting testimony regarding the incident. The question again remains as to whether the conduct of Officer Roberts was of such a degree that it did involve moral turpitude thereby impairing his ability to perform as a law enforcement officer. In this instance, however, Amy Gorham stated that Officer Roberts did not kiss her and that she did not have the impression that he was going to kiss her. I find that the charge relating to the incident of August 7, 1982 is not proven with substantial certainty to be immoral conduct. Therefore, I recommend that the charges against Officer Roberts on Charge No. 2 be dismissed. In reviewing the memorandum filed by the attorneys for the respective parties, it is my opinion that there is concurrence that this specific charge be dismissed in total.

Respectfully submitted,

  
BERNICE MCPHILLIPS, Hearing Officer



LAWRENCE E. CORBETT, JR.  
ATTORNEY AT LAW  
70 BURGUYNE AVENUE  
FORT EDWARD, NEW YORK 12828

P. O. BOX 393  
518-747-0611  
518-747-4289

November 2, 1982

Jean Culligan  
Civil Service Work Comp.  
County Building  
Fort Edward, New York 12828

Re: Matter of Jon Roberts Disciplinary  
Hearing-Village of Fort Edward  
Police Department

---

Dear Jean:

Pursuant to Section 75 of the Civil Service Law I'm enclosing herewith a copy of the original charges made against Officer Jon Roberts. An Answer to the charges was filed by his attorney, John McMahon, and said Answer is in the possession of the Hearing Officer. Said Answer denied the charges.

I am also enclosing a copy of the Transcript of the Hearing and the recommendations of the Hearing Officer. I further enclose a copy of the Resolution of the Village Board of Trustees adopted November 1, 1982 wherein Jon Roberts was found guilty of Unbecoming Conduct in violation of Section 1.02 of the Rules and Regulations of the Fort Edward Police Department-Unbecoming Conduct.

The Village Board has followed the recommendation of the Hearing Officer and has issued a reprimand to the officer and filed a copy of the same in his employment record. The Village Board further determined that Officer Roberts loss of pay during the period of his suspension be considered as part of the penalty against him.

Very truly yours,

LEC:jm  
Encs.

Lawrence E. Corbett, Jr.  
Village Attorney

LAWRENCE E. CORBETT, JR.  
ATTORNEY AT LAW  
70 BURGUYNE AVENUE  
FORT EDWARD, NEW YORK 12828

October 28, 1982

P. O. BOX 393  
518-747-0611  
518-747-4289

Leonard J. King, Mayor  
Village of Fort Edward  
118 Broadway  
Fort Edward, New York 12828

Re: Disciplinary Hearing-Jon Roberts

Dear Mayor:

I have reviewed the report and recommendations of Bernice McPhillips, the Hearing Officer who conducted the above disciplinary hearing. I concur in her recommendation that Jon Roberts be found guilty of "Unbecoming Conduct" on July 17, 1981 and that he be reprimanded. I do not believe that complete discharge would be in order. A very similar case occurred in Hudson Falls some years ago involving Julius Bancroft, who is now deceased. Bancroft was discharged following a similar hearing and the Appellate Division of the Supreme Court reversed the action of the Village Board, indicating that complete discharge was too severe. This case is very similar to the Jon Roberts situation.

The Village Board should, at its November 1, 1982 meeting, acknowledge receipt of the Hearing Officer's report and recommendations. The Board should then adopt a resolution finding Jon Roberts guilty of "Unbecoming Conduct" on July 17, 1981 and that he be reprimanded and that a letter of such reprimand be made a part of his employment record. His loss of pay during the period of his suspension may be considered as part of the penalty against him and should be noted in the resolution.

I do believe that the Rules and Regulations of the Fort Edward Police Department should be amended and possible amendments could be discussed at the forthcoming Village Board meeting on November 1, 1982.

Very truly yours,



Lawrence E. Corbett, Jr.,  
Village Attorney

LEC:jm

VILLAGE OF FORT EDWARD  
FORT EDWARD, N. Y.

VOUCHER

DEPARTMENT \_\_\_\_\_

CLAIMANT'S  
NAME  
AND  
ADDRESS

LAWRENCE E. CORBETT, JR.  
70 Burgoyne Avenue  
Fort Edward, New York 12828

TERMS \_\_\_\_\_

Order No. \_\_\_\_\_

DO NOT WRITE IN THIS BOX

Date Voucher Received \_\_\_\_\_

FUND - APPROPRIATION

AMOUNT

TOTAL

Abstract No. \_\_\_\_\_

Vendor's  
Ref. No. \_\_\_\_\_

VOUCHER NO. \_\_\_\_\_

Dates	Quantity	Description of Materials or Services	Unit Price	Amount
		1 hr. interview with Mitchell Suprenant relative to original charges against Jon Roberts		
		1 hr. review of \$75 of the Civil Service Law-Disciplinary Proceedings		
		2 hrs. preparing formal charges against Jon Roberts and interviews with witnesses		
		3 hrs. in attendance at formal hearing		
		2 hrs. review of Testimony and preparation of Answering Brief for submission to Hearing Officer		
		<i>COPY</i>		
			TOTAL	\$450 00

CLAIMANT'S CERTIFICATION

I, LAWRENCE E. CORBETT, JR., certify that the above account in the amount of \$ 450.00 is true and correct; that the items, services and disbursements charged were rendered to or for the municipality on the dates stated; that no part has been paid or satisfied; that taxes, from which the municipality is exempt, are not included; and that the amount claimed is actually due.

October 28, 1982

DATE

*Lawrence E. Corbett*

SIGNATURE

Village Attorney

TITLE

(Space Below for Municipal Use)

DEPARTMENT APPROVAL

The above services or materials were rendered or furnished to the municipality on the dates stated and the charges are correct.

DATE

AUTHORIZED OFFICIAL

APPROVAL FOR PAYMENT

This claim is approved and ordered paid from the appropriations indicated above.



LAWRENCE E. CORBETT, JR.  
ATTORNEY AT LAW  
70 BURGoyNE AVENUE  
FORT EDWARD, NEW YORK 12828

October 28, 1982

P. O. BOX 393  
518-747-0611  
518-747-4289

Leonard J. King, Mayor  
Village of Fort Edward  
118 Broadway  
Fort Edward, New York 12828

Re: Disciplinary Hearing-Jon Roberts

Dear Mayor:

I have reviewed the report and recommendations of Bernice McPhillips, the Hearing Officer who conducted the above disciplinary hearing. I concur in her recommendation that Jon Roberts be found guilty of "Unbecoming Conduct" on July 17, 1981 and that he be reprimanded. I do not believe that complete discharge would be in order. A very similar case occurred in Hudson Falls some years ago involving Julius Bancroft, who is now deceased. Bancroft was discharged following a similar hearing and the Appellate Division of the Supreme Court reversed the action of the Village Board, indicating that complete discharge was too severe. This case is very similar to the Jon Roberts situation.

The Village Board should, at its November 1, 1982 meeting, acknowledge receipt of the Hearing Officer's report and recommendations. The Board should then adopt a resolution finding Jon Roberts guilty of "Unbecoming Conduct" on July 17, 1981 and that he be reprimanded and that a letter of such reprimand be made a part of his employment record. His loss of pay during the period of his suspension may be considered as part of the penalty against him and should be noted in the resolution.

I do believe that the Rules and Regulations of the Fort Edward Police Department should be amended and possible amendments could be discussed at the forthcoming Village Board meeting on November 1, 1982.

Very truly yours,

  
Lawrence E. Corbett, Jr.,  
Village Attorney

LEC:jm

Rec'd  
9/7/82

McMAHON & McMAHON, P. C.

ATTORNEYS AT LAW

16 LAKE AVENUE

P. O. BOX 587

SARATOGA SPRINGS, NEW YORK 12866-0587

TELEPHONE 584-5030 AREA CODE 518

CARL L. McMAHON (1885-1966)

JOHN L. McMAHON

EDWARD J. McMAHON

JOHN P. COSEO

PETER L. COSEO

September 7, 1982

Hon. Leonard J. King  
Mayor  
Village of Fort Edward, N.Y. 12828

Re: Jon Roberts

Dear Sir:

Please be advised that this firm has been retained to represent Mr. Jon Roberts in proceedings commenced under Section 75 of the Civil Service Law.

For an answer to the charge placed against him Mr. Roberts denies the charge. As to Specification #1 Mr. Roberts admits that on July 17, 1981, Donna Suddard was carried as a passenger in a police car but denies the allegation that her presence was not related to the performance of police duties and further denies that such action violates Section 1.02 of the Rules of Conduct of the Fort Edward Police Dept. As to Specification #2 Mr. Roberts denies the allegations contained in said Specification.

Please be further advised that Mr. Roberts will appear with counsel on the hearing date set forth in your letter of August 24, 1982.

Yours very truly,

McMAHON & McMAHON, P.C.

  
John L. McMahon

JLM/cc