

Toms River Fire Commissioners, District No. 1
Executive Session
January 26, 2022

Meeting was opened at 6:00 p.m. and Open Public Meetings Statement was read by Chairman Convery.

Roll Call: Commissioner Autenrieth, Commissioner Minkler, Commissioner Tutela and Chairman Convery all present. Commissioner Latshaw participated by phone on speaker.

Attorney Appleby reminded all in the room that the proceedings in executive session were confidential and should not be shared outside the confines of the proceedings. Attorney Appleby read the Resolution authorizing the convening of an Executive Session under the Open Public Meetings Act and asked for a motion from the Board.

Motion to go into closed session made by Commissioner Autenrieth and seconded by Commissioner Tutela. All voted in favor.

Attorney Matthew Donohue, Attorney Melanie Appleby present for the Board. Attorney Robert Tarver present with his client, Kenneth Piscopo, and his wife. Attorney Gordon Golum and Attorney Ashley Morin were present for Toms River Fire Company No. 2 with client representative, Fire Company No. 2 President, Bryant Curry. Also present was Kenneth A. Hamilton, witness for Kenneth Piscopo.

Attorney Donohue requested that all leave the room, aside from the Commissioners and Attorney Appleby, to leave the room so that he could discuss procedures only with the Board as to the upcoming appeal by Mr. Piscopo of his termination from Toms River Fire Company No. 2.

Attorney Donohue explained to the Commissioners the procedures that would govern the hearing. Opening statements would be allowed, and he would present the allegations against Mr. Piscopo. The Commissioners could ask questions directly, or could submit questions to Mr. Donohue for him to ask. Attorney Golum will have the chance to present his version. In his correspondence from January 24, 2022, Mr. Golum challenged the jurisdiction of the Board to hear the appeal, as he asserted that this was not a firematic matter. He also alleged that the Board had not exhausted administrative remedies as he waived his appearance before the Fire Company. Attorney Golum also asserted that the Fire Company did not have enough time to prepare for the appeal.

Attorney Tarver will be allowed to make a statement and call witnesses for testimony.

Closing statements will be allowed.

Witnesses will be sequestered prior to testimony.

Objections will be noted but the Rules of Evidence will not apply.

The Board must determine credibility and determine if the credible evidence supports the termination. Alternate remedies were proffered. No final decision will be made tonight and a written determination will be made by the Board. All matters in executive session are confidential under the Open Public Meetings Act.

At approximately 6:10 p.m., all participants in the Piscopo hearing were allowed back into the Conference Room.

Attorney Tarver and Attorney Golum had discussed possible terms of a settlement, but Attorney Tarver indicated that there would be no settlement, but he wanted to put two things on the record. Attorney Donohue indicated that Attorney Tarver would have an opportunity to make a statement.

Attorney Donohue made an opening statement as follows:

Good evening, Commissioners. As you know, we are here today to consider an appeal regarding the termination of Ken Piscopo from Toms River Fire Company No. 2, which occurred on or about August 3, 2021. Pursuant to the District's By-Laws, this Board has jurisdiction to hear this appeal. Under Article I, Section 7, it states that this Board has jurisdiction "over all firematic matters within the boundaries of Fire District No. 1 in the Township of Dover, and in that regard shall have the authority in all respects over all volunteer and other fire companies or departments operating within the boundaries of the said fire district."

This is an informal hearing – the Board is not bound by the Rules of Evidence, and will not be required to make any legal determinations in the event of objections from either counsel. The task of this Board is to judge the credibility of the witnesses, and to focus on one, single issue: Was Company No. 2 justified in terminating Ken Piscopo for insubordination, conduct unbecoming, and verbal assault of another officer or member? If not, what should the remedy be? The burden of proof is on the District and Company to show by a preponderance of the credible evidence that Mr. Piscopo's termination was justified, which is typical in administrative law proceedings involving public employee or member discipline.

I remind everyone that this is a closed session of a public meeting – all witnesses are obligated to uphold the privacy of this proceeding as outlined in the Open Public Meetings Act. Minutes will be taken by my colleague, Retired Superior Court Judge Melanie Appleby, and witnesses will be sworn in by Judge Appleby. Those minutes shall be provided to all parties in due course once approved by the Board at a subsequent meeting. If counsel has an objection, the objection will be noted and preserved in the record. Although this may be an informal hearing, we will be observing all Due Process procedures (for example, each side will have an opportunity to question a witness, all documents and videos have been provided to all sides prior to this hearing, etc.) to ensure the fairness of the proceeding. We demand basic decorum of all counsel, parties and witnesses participating today. Mr. Curry will be permitted to sit with his counsel, as well as Mr. Piscopo with his. Outside of those individuals, all other witnesses shall be sequestered to prevent potential bias in the testimonies.

The general structure of this meeting will go as follows – I will provide a general overview of the allegations and the exhibits, then Mr. Golum or Ms. Morin will be permitted to give an opening statement regarding Company No. 2's version of events, which may include a reiteration of his previous objections as stated in his January 18, 2022 correspondence, and then Mr. Tarver will give the final opening statement, where

he will outline Mr. Piscopo's version and place any objections regarding these procedures on the records. I will then conduct a direct examination of the witnesses present from Fire Company No. 2, Mr. Golum or Ms. Morin will have an opportunity to examine the witnesses as well, and then Mr. Tarver will have an opportunity to cross-examine. We will also allow a re-direct and re-cross, if requested. Once the Company No. 2 witnesses have completed their testimonies, Mr. Piscopo will have an opportunity to testify and be examined by Mr. Tarver, and then myself, Mr. Golum and/or Ms. Morin may conduct a cross-examination. Commissioners, at the conclusion of the examinations, you may ask questions of the witnesses should you need any clarification or an additional explanation regarding the testimony.

One final procedural note before I give my summation of the facts and exhibits -- any witness that testifies today will be doing so voluntarily. This Board does not have subpoena power, which means that this Board is not to infer any inference, positive or negative, if an individual chooses not to testify. If someone does testify, they will be expected to respond truthfully to all questions asked by myself, Mr. Golum, Ms. Morin, Mr. Tarver, and all members of the Board.

All parties and each of you have been given a packet which contains Company No. 2's submitted exhibits (A-E), as well as Mr. Piscopo's exhibits (F-I). These exhibits include the documents that the District submitted to all parties when this hearing was scheduled -- namely, the Complaint filed by Tim Cook (another member of Company No. 2), and the meeting minutes of Company No. 2 for the July 27, 2021 and August 3, 2021 meetings.

Moving now to the allegations: on or about July 20, 2021, Toms River Fire Company No. 2 was conducting training exercises throughout Toms River during evening hours. At approximately 8:15 p.m., one of the company trucks utilized the "Jake Brake" within proximity of Kenneth Piscopo's residence. On that same date, at approximately 9:00 p.m., Mr. Piscopo allegedly called Timothy Cook -- a member of Toms River Fire Company No. 2, -- and verbally threatened to "come down to the firehouse" and "kick [Mr. Cook's] ass" as a result of Mr. Piscopo receiving numerous neighborhood complaints on the "Jake Brake" waking sleeping children. Mr. Piscopo allegedly added that if Mr. Cook and Fire Company No. 2 traveled down Mr. Piscopo's street again, Mr. Piscopo would pull Mr. Cook out of the truck and "kick his ass." Mr. Piscopo also called Capt. David Rice, and voiced his displeasure regarding the Jake Brake incident -- it is unclear if Mr. Piscopo knew he was being recorded. It is also unclear whether the conversation was an official complaint by Piscopo to a superior officer, or a personal conversation. It is clear from the videos that portions of the conversation were not recorded, which can be seen in the minutes on David Rice's vehicle. Company No. 2 provided these videos, and Mr. Tarver and Piscopo have received them as well -- but I shall play all of them in their entirety during the testimonies.

You shall see in the exhibits that Company No. 2 issued a written notice to Mr. Piscopo regarding the charges and appearing before Company No. 2's Investigative Committee to answer for alleged insubordination, verbal assault/threatening of a member/officer, and harassment. As you will see in the exhibits and e-mails, Mr. Piscopo was provided multiple times to meet with the Investigative Committee but

waived his appearance at the initial hearing. The Investigative Committee concluded that Mr. Piscopo did commit insubordination, conduct unbecoming and threatening of a member/officer. It is unclear from the documentation what insubordination was committed, who the committee interviewed (due to redactions), and how the Investigative Committee reached its determination to recommend termination.

On August 3, 2021, the Investigation Committee presented its recommendation to the membership of Company No. 2. (*Page 50.)

From the minutes, it is clear that a 90 day suspension was considered, but did not receive a 2nd motion to bring to the membership. The minutes then state that after a motion was made and seconded to consider termination for Mr. Piscopo, a ballot vote was conducted. It is unclear how this ballot vote was conducted, who tallied the vote, and what the final count was from the documentation submitted. Mr. Piscopo received a notice of termination dated August 5, 2021 from Company No. 2 (**page 43**) and then requested a copy of all documentation that the Investigative Committee considered (such as an original complaint, the investigation reports from the investigation meetings, the alleged recordings of Dave Rice, and all other evidence obtained in connection to Mr. Piscopo) on August 10 and then once again on August 14. It is unclear if this was provided to Mr. Piscopo from the documentation submitted. (*Page 44)

Administrator Kubiak then received a request to appeal Company No. 2's determination on or about August 11, 2021, which brings us to today. With that, I have concluded my opening statement, and now turn the floor over to Mr. Golum and Ms. Morin. Thank you, Commissioners.

Attorney Tarver stated as a point of order, he wanted to make an opening statement also.

Attorney Golum gave an opening statement for Toms River Fire Company No. 2. He indicated that he had provided the Commissioners with his position in Correspondence to Attorney Donohue on January 24, 2022. He stated that this appeal was not a firematic matter and it should not be a matter considered by the Board. He questioned the jurisdiction of the Board to hear this appeal. Attorney Golum stated that he did not think a new record should be created and that the record was before the Fire Company No. 2. No brand new slate should be made today.

Attorney Golum questioned Attorney Donohue as to whether the Commissioners rejected his jurisdiction argument and did the Commissioners meet on it? Attorney Donohue indicated that the jurisdiction question was still a decision to be made by the Board and it would hear his arguments on jurisdiction.

Attorney Golum continued that he questioned what would be the appropriate remedy. He cited a case from the 3rd Circuit (Versarge) which involved the expulsion of a volunteer firefighter, and the court found no cause of action. The court observed that reinstatement was not a remedy because of its conclusion of the animosity. The case addressed the First Amendment rights and the court noted that the content caused disruption and that lives were at stake. There was a need for common loyalty. If

Mr. Piscopo was reinstated over objection, “can’t imagine how fight a fire” together. What would happen if he and the other members did not get along and didn’t trust entering building with him.

Attorney Golum concluded his remarks by stating that Toms River Fire Company No. 2 would offer no testimony and provide no fact finding, based on the jurisdictional objection.

6:21 p.m.

Attorney Tarver, Ken Piscopo’s attorney, responded to Attorney Golum’s statement as to jurisdiction. Attorney Tarver stated that jurisdiction was proper and lawful and agreed with the Board that the Bylaws gave the power to hear the appeal. Attorney Tarver wanted to place procedural items on the record. One, even though Attorney Tarver admits that Ken Piscopo got notice of the hearing, he was not “Rice” noticed and did not have the chance to have the matter heard in open session. He therefore placed an objection on the record.

Attorney Tarver also objected to the procedural defense as to not having subpoena power. Attorney Tarver asserted that the Board had the power to demand a witness to testify and it was “relatively clear.” Procedural due process directed that a witness could be called in one’s own defense of a matter.

Attorney Tarver then gave his opening statement.

Attorney Tarver stated that the reason we are here is because Ken Piscopo was terminated. The allegations are that a truck drove down his street and Mr. Piscopo said if you drive down my street again, I’ll kick your ass. Attorney Tarver stated that the Board should consider what is a conditional threat and an actual threat. Mr. Cook went down the street with a 25 mph speed limit and used the Jake brake. Jake brake kicks in if revving way to high and going too fast and makes a huge sound. Is it a true threat? Need meaning and intention. Doesn’t pass muster based upon the meaning of a conditional threat. Fire Company No. 2 selectively enforced against Mr. Piscopo. Keep an open mind – if he really wanted to kick his ass, he would have done it.

Attorney Tarver objected that Mr. Curry was in the room with his attorney and was not testifying. He wants to call him as a witness, as he is a person with information. Attorney Donohue stated that there was no rules or regulations which warranted this, and Mr. Curry was not forced to testify. Attorney Golum then asked about witness consultation and why the Board indicated in its letter to potential witnesses that they should or could have counsel. He wanted a sense of what Mr. Tarver wants to ask and it was just “fundamental fairness.” What is the purpose of having him testify? Attorney Donohue indicated that he can’t be clairvoyant. Attorney Golum stated that why was a witness called and why would he be asked to appear. Have to determine whether or not to appear – “not a crap shoot”. Attorney Donohue stated that it was obvious from the many notices what the hearing was about and that this is to determine what happened. Attorney Golum said the Board should not review the termination.

The proceedings broke for 5 minutes. Attorney Tarver and Attorney Golum consulted in hallway.

Proceedings reconvened at 6:35 p.m.

Attorney Tarver called Kenneth A. Hamilton as his direct witness. Attorney Appleby swore in Mr. Hamilton.

Testimony of Kenneth A. Hamilton, direct witness for appellant, Ken Piscopo:

Attorney Tarver questioned Mr. Hamilton on direct. Mr. Hamilton testified that he was affiliated with Toms River Fire Company No. 2 for approximately 34 years, and was currently a Life Member. He was Past President of the Fire Company and still had firefighter friends at the Company. Mr. Hamilton was asked if he read the charge proffered by Fire Company No. 2. He indicated that he had and was aware of the allegations. Mr. Hamilton was asked if he had ever been heard another fire fighter say "I'll kick your ass" in the fire house. He responded yes. He stated that firefighting is a hazardous job and is stressful, and sometimes words are said. It is a true brotherhood. Mr. Hamilton stated that he had seen members "come to blows." When asked how often he heard members say things like "I'll kick your ass", he said it was on a regular basis. He could not recall anyone being disciplined for that. As Past President, he did not recall any other incident.

Attorney Tarver asked about incidents in Fire Company No. 2. Mr. Hamilton recounted a Company function (holiday picnic) where Captain Dave Rice "slapped" Probationary Matt Rice (his son) and it came to "physical blows". Attorney Tarver questioned whether Mr. Hamilton was aware of any discipline as a result of this? He was not aware of any. This physical assault could qualify as conduct unbecoming.

Mr. Hamilton recounted another incident at a Company Christmas Party. It was a "members only" party and no outside people. Dave Rice invited his wife to the members only party. Alcohol was consumed at the party. The Company's treasurer, Allen Robinson, told Dave Rice that she should leave. Allen through Dave into a wall. Mr. Hamilton stated that he knew of no discipline as a result of that. Attorney Tarver asked whether there was danger in this and Mr. Hamilton stated that someone could get physically hurt. Attorney Tarver asked what Mr. Hamilton thought of someone saying "I'm gonna fuck you up"? Mr. Hamilton it was a threat to make a point. Immediate and credible threat could warrant discipline. Attorney Tarver asked how discipline started? Mr. Hamilton stated that discipline, under the bylaws, can follow a complaint or written report. Attorney Tarver asked if anything would stop discipline if someone didn't file a written report. Mr. Hamilton stated that it could be done verbally.

Attorney Tarver asked Mr. Hamilton if he was familiar with Tim Cook and his prior history with Ken Piscopo. Mr. Hamilton stated that he was aware of negative history between them. Mr. Hamilton testified that he wrote a letter to the Board to note the harassment by Tim Cook on Ken Piscopo. He said he complained to the Chief Cirz and President Curry many times but it never got taken care of. He was never told not to do a written report, but it was "implied."

Mr. Hamilton testified regarding a "hose demonstration". Cook had ordered Piscopo to allow Halpin as man on the line. Piscopo already had the hose flaked out but gave nozzle to Halpin. Cook told Chief Cirz that Piscopo disobeyed orders by allowing Halpin to operate hose. According to Mr. Hamilton, Chief told Tim Cook "are you sure?" He had videotaped the whole thing and not how it went down. He said

Piscopo did a magnificent job. Mr. Hamilton stated that Tim Cook “hemmed and hawed” and it was basically dropped.

Attorney Tarver asked Mr. Hamilton as a thirty year member/officer, was the past practice of Fire Company 2 to allow threats without discipline? Mr. Hamilton said individuals who had been physically fighting without being written up or disciplined as past practice. Attorney Tarver asked given the past practice, and what now know, was Piscopo treated differently than someone similarly situated? Mr. Hamilton testified yes.

6:49 p.m.

At this point, Attorney Golum interjected and objected to the Hamilton letter to the Commissioners. He alleged that the Board had the letter and he had not seen the letter that Hamilton said he sent to the Board on July 23rd. He demanded to know if the Board had read the letter. Attorney Donohue stated he had not talked to Attorney Tarver before the hearing about any letter and whether it had any bearing. Attorneys Tarver, Golum and Donohue went back and forth regarding the letter. Attorney Golum said something about the letter and OPRA. Attorney Tarver said that Golum never asked for the letter and he was accusing him of something untoward. Attorney Golum stated that he was not suggesting that.

Chairman Convery interrupted the discourse to state that he had never gotten any letter from Ken Hamilton. Commissioner Tutela also stated that he had not seen any letter from Ken Hamilton. Attorney Tarver stated that Mr. Hamilton came up from South Carolina today and he represented that he never talked about it before. Attorney Donohue stated that there was nothing done wrong and the Board was not considering the letter produced here at the hearing.

Cross Examination of Kenneth Hamilton by Attorney Donohue, Attorney for the Board:

Attorney Donohue asked about the altercation between Captain Rice and his son and when did that occur? Mr. Hamilton stated it was 2020. Attorney Donohue asked about the incident with Allen Robinson and Rice at the Christmas party and did he recall when that was? Mr. Hamilton stated it was 2018 or 2019. Mr. Hamilton was asked how long ago it had been that he was President of the Company, and he stated it was 20 years ago, for one year. Mr. Hamilton stated that he has been on the Investigation Committee, and it met twice or three times a year. Attorney Donohue asked if there were written procedures? Mr. Hamilton stated that not step by step. The usual procedures were that someone was called forth, were showed what they were accused of, other witnesses were called forward. The Committee would adjourn to closed session and make findings as to membership. A penalty was recommended.

Mr. Hamilton testified that counsel would not be present with member. Attorney Donohue asked as to the vote was conducted. Hamilton stated that it was closed sealed ballot, with a Yes or No on the findings. The votes were tallied, and the President reads the vote.

Attorney Donohue asked as to how bylaws changed and if he recalled when on the Investigative Committee if changed? Hamilton replied that he did not think so. Attorney Donohue asked about the Brandon Halpin incident and whether he knew if a complaint was filed by Tim Cook? He did not know.

Attorney Donohue asked about Mr. Hamilton's participation in training in Company 2. Hamilton stated that he lived in South Carolina but was still a resident of Toms River. He had not participated in the training that was the subject of this charge. He last participated in training just before the death of his father. Hamilton stated he was not at the July 2021 training but was at the August 3 meeting. Attorney Donohue asked if President Bryant Curry was there and did he recall what he said? Hamilton did not. The Investigative Committee met and felt Piscopo was guilty of the charges and recommended that Ken be removed. Attorney Donohue asked if any questions were asked on August 3? Hamilton said there was discussion back and forth. Hamilton said many worse things had been done and nothing happened. Hamilton said someone suggested suspension.

Attorney Donohue asked to turn to page 54, then page 50. This page is the minutes from the Fire Company #2 August 3, 2021 meeting. Hamilton was asked about the vote. The vote was tallied before all members.

Attorney Donohue asked about the appointment of the Committee Chair. Also asked about the membership of the Investigative Committee. Hamilton stated that they tried to pick life members with more experience. Attorney Donohue asked if he had knowledge of documentation or witnesses? Did he know if the procedures were followed? Hamilton did not know if followed.

Attorney Tarver was asked if he had any redirect, and he said no.

A break was announced at 7:14 p.m.

Prior to the re-commencement of the proceedings, Attorney Donohue asked District No. 1 Administrator Kubiak whether the meeting was properly noticed. Mr. Kubiak indicated that the special meeting for tonight was noticed and properly published.

7:16 p.m.

Attorney Tarver called Kenneth Piscopo as his direct witness. Attorney Appleby swore Mr. Piscopo in.

Direct examination of Kenneth Piscopo by Attorney Tarver:

Attorney Tarver asked Mr. Piscopo about himself. Piscopo stated that he was a Boy Scout leader. He was a member of Fire Company No. 2, but never a line officer. He was a corporate officer. Attorney Tarver asked if he was ever disciplined within the Fire Company? Piscopo said not every in any trouble. He had no infractions. Attorney Tarver asked about the incident with Mr. Cook driving down the street. Piscopo did not come around because of confrontation a week before. Heard the jake brake. He lived in a residential neighborhood, by Clayton, and it is a "big U" and you have to go in and come out same way. There are kids on the street, and it is a 25 mph zone with cars parked on the street. Truck 31 went by around 8 pm. Neighbors complained to Piscopo, "thought it was me." He heard the jake brake and it goes when retard the engine or at certain RPM's. Either going too fasts or revving too high. The truck went past his house. Piscopo leaved who was on the truck. He left calls with Chief Cirz, line officers, and no one would return his calls. He called Tim Cook who admitted he was on the truck, "training" on his

street. Piscopo said no reason to be on his street, could have crashed into cars and had to be going about 40 mph. Piscopo admitted that he was angry. He told Cook, you drive down my street again, I will kick your ass. He could walk to the firehouse from his house, it about 500 feet away. Piscopo testified he was angry about the jake brake, but that he had no intention of acting. He was just angry. Piscopo stated that he called Dave Rice because he thought he was his friend and told him about Tim Cook. He told him – this is where I am at, Tim Cook left me in front of the hospital with high rise pack by myself.

Attorney Tarver asked if he, Piscopo, was asked to appear before the Investigative Committee? Piscopo answered yes. They would not tell him ahead of time what it was about, just said to come in. “You know what you did on Tuesday” Curry said to Piscopo.

Attorney Tarver asked when he first actually learned? When he was formally charged.

Attorney Tarver asked how long Piscopo was with Fire Company 2. He stated it was 5 or 6 years. Attorney Tarver asked if he had heard the testimony of Ken Hamilton and the language he used as to “kick your ass”. Piscopo stated that this kind of language was regularly used. Attorney Tarver asked about whether Piscopo was aware of the incident with Rice? He was and the Company did not bring charges. Piscopo asked how things were handled. He stated that he expected to talk it out - we are “grown men.” Piscopo was not aware of any disciplinary action taken for someone making a conditional threat such as “I’m gonna kick your ass”. Attorney Tarver asked about the incident with Tim Cook. Did he have any prior problems before July? Piscopo stated that Bryant Curry would take care of it – just cooperate. Piscopo related an incident related to a drill of probationary members. Tim Cook spoke over Piscopo when he tried to speak to members. Piscopo was told that Tim Cook was in the back badmouthing him. He had a strained relationship with him from the day “I met the man.” Attorney Tarver asked about the conversation he had with Tim Cook and whether he thought it was a professional or a personal conversation. He stated it was personal.

Attorney Tarver rested.

7:32 p.m.

Attorney Donohue cross-examination of Ken Piscopo.

Attorney Donohue confirmed with Piscopo he had about 5-6 years with Fire company 2. He asked how many trainings and how often? Piscopo said the driver’s part, you go through a class. Jake brake used in training but have to “crawl before you can walk.” Piscopo stated he called Tim Cook and said to him if he came down his street again, he would kick his ass.

Piscopo stated he called the Chief, Bryant Curry and Dave Rice and no one called him back.

Attorney Donohue asked Piscopo to watch three video snippets. Attorney Tarver objected because there were obvious edits to the videos. Attorney Tarver stated that Fire Company 2 used three individual videos that reflected the same conversation, but it was a 7 minute call, and each video is only 1 minute long. Can hear Mr. Rice’s radio. The recording is selectively edited into three snippets. Attorney Tarver stated that there is no context to the call and this was cherry-picking to pick out and it was prejudicial. Attorney Tarver said he wants the entire video. Attorney Golum asked for a break.

Return at 7:38 pm.

Attorney Donohue shows 1st video clip to Piscopo, which is in sequence. Attorney Donohue asked to listen and is this him? Piscopo is heard saying that the Jake Brake is in front of my “fucking house” “so pissed off” “harassing me in front of my fucking house”. Rice is heard saying on video that if Tim [Cook] is driving, he [Piscopo] had a valid point about harassing. Attorney Donohue asked if this is what Piscopo was calling harassment.

Attorney Golum objects and says the tape speaks for itself. Under the Rules of Evidence, why are you interpreting what is said by asking him if this is the harassment? Who do you work for?

Piscopo could not see the time on the computer but saw call time of 20:55 pm.

Attorney Donohue showed 2nd sequential video clip to Piscopo. Piscopo identified voice of self in video. A lot of “mother fucker” – called three times, no voice mail, didn’t answer. The man is harassing me, sue the motherfuckers. Drove down my street and jake brake, have on Ring camera.

Attorney Donohue showed 3rd sequential video to Piscopo. Piscopo is having another part of conversation with Dave Rice. Asked how long was the conversation. Piscopo heard saying “fucking pussy”, “will fuck him up”, “I want something done at corporate: “fucking me over” “it’s harassment” “What the fuck is this” “going to swing in” and “talk to Kubiell” in morning, “want his badge”, “can’t fucking stand it anymore.”

Piscopo stated that all three videos are missing parts of conversation. Attorney Donohue asked if Piscopo on Investigative committee? Piscopo was on in 2021. How many complaints filed while on Investigative Committee? Piscopo said two times.

First one was that Tim Cook was harassing a girl and charges were brought up. It was dropped after Bryant Curry and Jeff Cirz said there was no problem and they had “talked to her.” There was no discipline, no evidence considered.

Piscopo was asked about the training. Piscopo stated that there was no training and that “Bryant Curry ran the show.”

Piscopo said at first that he could not remember the second disciplinary complaint but then he remembered. It was Joe Regan and he forged his name on a call sheet. The discipline was 30 days for fraudulent report. He had no prior discipline.

Attorney Donohue asked to turn to page 4 of the packet. This is a letter from Tim Cook to Chief Cirz. Did you receive this prior to the investigative committee? No, never received it. Piscopo said he did not get until his lawyer got the documents in discovery.

Attorney Donohue went through the packet and asked about page 24, where charges were brought. No explanation of charges. Page 27, Piscopo asked to read aloud. Several questions that Piscopo had asked in email which he testified were never answered.

Attorney Donohue asked about text message on page 32 of packet. The gray block was Piscopo and the blue block of text was Curry.

Attorney Donohue asked if Piscopo attended the original meeting and said he was still away. Letter was sent on Monday when he was out of town. Got letter with no attachments. Attorney Donohue asked about page 34 of packet. Asked about 2nd paragraph from bottom which stated "I will fuck you up". Piscopo said that to Dave Rice about Tim Cook, not to Tim Cook. Also said "all a bunch of assholes" to Dave Rice, not to Tim Cook.

Page 43 of the packet. Attorney Donohue asked Piscopo about the letter from Pat. Certified letter and nothing attached. Attorney Donohue asked about August 10, 2021 email at 4:47 pm and his request for information. Piscopo stated that he never got a response from Curry. Attorney Donohue asked about the August 3, 2021 hearing and whether Piscopo attended. He stated that he did not attend.

No further questions for the witness.

7:59 p.m.

Attorney Golum objected. Again raised 3rd Circuit case and that testimony on its face showed that not harmonious and obviously can't fight fires safe way.

No redirect from Attorney Tarver.

CLOSING Statements:

Attorney Tarver gave closing statement. He stated that the Board had an opportunity to hear certain things. What brings us here? Stems from an alleged threat. Was it an actual threat. Must consider the immediacy and the efficacy of threat. "Whoop his ass" and 9 times out of 10 don't follow through. No discipline at Company even when the person follows through. This was a conditional threat and a lot of whining and puffing. There had not been a peep for 5 years about Piscopo before issue with Tim Cook and complaint about Jake Brake. In a 25 mph zone, no other explanation. Phone call with Tim Cook tried to deal with problem with Piscopo, but Cook beat him to the punch. Can tell when something above board because use same procedure. No dichotomy, due process, when came to Ken Piscopo. Procedures went out the window. Couldn't even send him the proper documentation. Things should operate above board. This was rammed through without due process. Expect to have due process and above board. Attorney Tarver noted the 1 minute snippets out of context and the Board must make up its mind. Two things – not a threat at all. Only thing different is the person. Under our laws, must do the same thing to similarly situated people. Cannot let one know what being charged and not the other. Piscopo was treated differently. Against own policy and procedures. No due process, process not

followed. No way upheld. Should be sanctioning for selective treatment. They drummed him out. Piscopo deserves due process.

8:08 p.m.

Attorney Golum requested to make a closing statement. He stated that Piscopo was “instructed not to appear” for his hearing at Fire Company. He could have asked the questions at the investigative committee. Now is complaining about due process. There is not jurisdiction and no authority to have a de novo hearing. If you listen tonight, there is a lot of animosity. How in the world could they work a fire and do it safely? Whatever else, please think of that.

PROCEEDING CONCLUDED AT 8:10 P.M.

Attorney Donohue advised all present that a written decision would be forthcoming as well as a copy of the approved minutes.

All asked to leave except the Board and Attorney Appleby and Attorney Donohue at 8:11 p.m.

The Board deliberated and discussed credibility of witnesses, testimony and other evidence.

Attorney Donohue will prepare a written statement which will encompass the discussions and the Board will issue a written decision.

Motion was made to return to open session by Commissioner Minkler and seconded by Commissioner Autenrieth. All voted in favor.

Motion was made to close the meeting by Commissioner Autenrieth and seconded by Commissioner Tutela. All voted in favor.

Meeting concluded at 9:07 p.m.