

Borough of Ho-Ho-Kus
County of Bergen
Mayor and Council Special Meeting Minutes
January 31, 2023 7:00 p.m.

The Special Meeting of the Municipal Council of the Borough of Ho-Ho-Kus was held in the Municipal Building at 333 Warren Avenue, Ho-Ho-Kus, NJ on January 31, 2023. The meeting was called to order at 7:00 p.m. by Mayor Randall who asked the Clerk to read the open a public meeting statement:

The Special Meeting of the Mayor and Council of the Borough of Ho-Ho-Kus is now in session in accordance with the provisions of Section 5 of the "Open Public Meetings Act". Notice of this meeting has been posted in the front lobby entrance to the Borough Hall and Council Chambers, a copy has been filed with the Borough Clerk, and copies of the Annual Notice of Meetings, of which this is a part, have been heretofore sent to the Record and the Ridgewood News.

The purpose of this meeting is to enter executive session to discuss matters involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body pursuant to N.J.S.A. 10:4-12(b)(8). Specifically, the Governing Body will be discussing the suspension or removal of the Fire Chief of the Ho-Ho-Kus Volunteer Fire Department and consideration of a report issued concerning the same. Further legal action will be taken at this meeting in open session, including resolution to go into executive session and a resolution on the quantum of discipline to be imposed, and such other action as the Governing Body may deem appropriate.

ROLL CALL:

Mayor.....	Thomas W. Randall
Council President.....	Douglas Troast
Councilman.....	Steven Shell
Councilman.....	Kevin Crossley
Councilwoman.....	Kathleen Moran

****Councilman Policastro was absent and Councilman Iannelli sat in the audience. It should be noted they both have recused themselves regarding this matter.

FLAG SALUTE:

Mayor Randall led those present in the salute to the American Flag.

PUBLIC COMMENT

Mayor Randall opened the meeting to the public. He stated if anyone desired to be heard, state your name and address for the record. Seeing none, Mayor Randall closed the meeting to the public.

MAYOR STATEMENT

Mayor stated before the Council deliberates on the results of the charges in this matter he made a brief public statement:

“As you may know, until now, the Mayor and Council has not offered any public comment on this matter while it was pending a hearing before Superior Court Judge Toskos.

Now that the Judge has rendered his opinion, there are facts that the Governing Body wishes to share with you.

When we were informed that a probationary Ho-Ho-Kus fireman had left the firehouse in the early morning hours, and had driven while intoxicated resulting in property damage and his arrest, the Borough had no choice other than to undertake a full investigation. A determination regarding the circumstances of this incident, and any persons involved, was needed to ensure that proper measures were in place, and to assure that it would not happen again and, if appropriate, that disciplinary action be undertaken. A failure to investigate and to take remedial action would potentially leave the Borough exposed to

Borough of Ho-Ho-Kus
County of Bergen
Mayor and Council Special Meeting Minutes
January 31, 2023 7:00 p.m.

litigation should something similar happen in the future. To that end, we gave the Fire Department an opportunity to conduct an investigation and to provide its findings as to the underlying circumstances and as to who was present at the firehouse during the early morning hours. In particular, it was important for us to learn whether anyone in a leadership position was present.

At the end of 2021 and early 2022, the Borough was promised cooperation. However, after Mr. McDermott became Fire Chief all cooperation effectively stopped. As reflected in the Judge's decision, Mr. McDermott not only refused to cooperate, but he also failed to recuse himself from the departmental investigation committee. Steps were taken by Mr. McDermott to frustrate and interfere with the investigation committee, including his failure to disclose his presence in the firehouse for the entire morning in question, until the intoxicated member left. After receiving a woefully deficient report from the department on January 25, 2022, which provided no information as to how this incident happened, or what preventive measures were in place, the council had no choice but to complete the investigation which ultimately resulted in the charges against McDermott. Following the report, McDermott refused on three occasions to meet and cooperate with the Borough.

On or about February 13, 2022, as a courtesy, McDermott's attorney was advised that charges would be forthcoming. McDermott was afforded an opportunity to resign which would have ended any further disciplinary action against him. After initially indicating that he would resign, he later rescinded his resignation and decided to contest the charges. It was at that point he was suspended pending a hearing. Due to the sensitivity of the matter, retired Judge Toskos was brought in as an independent hearing officer and enlisted to preside over the hearing.

It goes without saying the spectacle of a public hearing was not good for the Borough and certainly was not good for the Fire Department. It was the Borough's preference to handle this matter as a closed personnel hearing. However, it was McDermott's choice, which was his right, to make this a public hearing, which allowed the public to attend. It also meant that any documents such as transcripts of testimony and the Judge's decision would be available to the public under the Open Public Records Act "OPRA".

During the ensuing months, while the Borough has refrained from distributing information regarding the case, much misinformation and falsehoods have filled the information vacuum. I will attempt to address some of them here.

On 4 separate occasions, the Borough has offered settlement proposals to McDermott in an attempt to resolve this matter before a decision was issued. McDermott has flatly rejected each such attempt at settlement unless he was immediately reinstated as Chief.

In September, a letter was sent on Fire Department letterhead to the entire town which falsely claimed that the Borough was pursuing this matter against McDermott at the expense purchasing radios for the department and was thereby compromising safety.

That claim was demonstrably false as radios during the previous 4 years were funded at \$200,000 plus an additional \$65,000 that was carried over from the 2021 budget into 2022. The Governing Body has always supported the department with essential equipment.

Incredibly, it was also falsely claimed by some individual that Borough agreed to pay for Mr. McDermott's legal fees. Never was such an arrangement discussed, let alone agreed to by the Borough. In rendering his findings and recommendations, the Judge found the Borough's witnesses to be credible

Borough of Ho-Ho-Kus
County of Bergen
Mayor and Council Special Meeting Minutes
January 31, 2023 7:00 p.m.

and McDermott's witnesses to be substantially incredible. The Judge's recommendation is clearly supportive of the actions taken by the Borough, in the interest of public safety, to investigate this matter and to take appropriate disciplinary action against McDermott based upon the underlying events.

As I stated in my letter in September, the councilmembers and I have great respect for our Fire Department and for those who serve this community honorably. We look forward to the end of this chapter and to working together for our residents.

CLOSED SESSION - On a motion by Councilman Crossley, seconded by Councilman Shell, the Mayor and Council approved entering into Executive Session closed to the public. Motion Carried by voice vote – all present voting “Aye”.

A Resolution - providing for a meeting not open to the public in accordance with the provisions of the New Jersey Open Public Meetings Act. NJSA 10:4-12

Whereas, the Borough Council of the Borough of Ho-Ho-Kus is subject to certain requirements of the Open Public Meetings Act, NJSA 10:4-6; and

Whereas, the Open Public Meetings Act, NJSA 10:4-12 provides that an Executive Session not open to the public may be held for certain specified purposes when authorized by resolution; and

Whereas, it is necessary for the Borough Council of the Borough of Ho-Ho-Kus to discuss in a session not open to the public certain matters relating to the item or items authorized by NJSA 10:4-12 (b) as follows:

8-Matters involving Employment
Fire Department matter

Now therefore, be it resolved by the Borough Council of the Borough of Ho-Ho-Kus assembled in public session on January 31, 2023 that an Executive Session closed to the public be and the same is hereby authorized for discussion of matters relating to the specified items designated above.

Closed Session began at 7:10 p.m. and ended at 7:22 p.m.

Returned to Public Meeting

ROLL CALL:

Mayor.....	Thomas W. Randall
Council President.....	Douglas Troast
Councilman.....	Steven Shell
Councilman.....	Kevin Crossley
Councilwoman.....	Kathleen Moran

At this time the Mayor requested a motion in regards to the disciplinary action.

Council Shell stated he trust the rest of the Council had the opportunity to reviewed the findings & conclusion of Judge Toskos. In his opinion he whole heartly agrees with his findings & facts. He is prepared to make a motion. However, he first wants to indicate this is a matter that he knows everyone takes very seriously. The underlying events regarding what occurred in late December 2021 and the months following are very disturbing and impacted the direct operations of the Fire Department and the safety on our residents. With that in mind, with the fact findings of Judge Toskos, he believes the only appropriate outcome based on those facts in the quantum of discipline imposed is to expel the Fire Chief.

Borough of Ho-Ho-Kus
County of Bergen
Mayor and Council Special Meeting Minutes
January 31, 2023 7:00 p.m.

Councilman Shell made a motion to expel the Fire Chief, seconded by Councilman Crossley who stated he also read the reports several times and agreed we should adopt the fact findings of the Judge. In his 36 years of experience and training as executive at AAA leads me to one conclusion. The only responsible vote here is expulsion. This is not something he takes lightly, however, given the seriousness of what has taken place and the conclusion by the Judge that the Borough has acted in an appropriate manner there is no other course of action that appropriately addresses the unfortunate series of events. Motion carried on a roll call vote – all present voting “Ayes.

ADJOURNMENT

On a motion by Councilman Shell, seconded by Councilman Crossley, the meeting was adjourned at 7:35 p.m. Motion Carried by voice vote – all present voting “Aye”.

Respectfully submitted,

Joan Herve, RMC/CMR
Borough Clerk