

BOROUGH OF HO-HO-KUS
Mayor and Council Combined Work Session & Regular Meeting Minutes
July 24, 2018

A Combined Work Session and Regular Session Meeting of the Mayor and Council of the Borough of Ho-Ho-Kus was held in the Municipal Building at 333 Warren Avenue, Ho-Ho-Kus, NJ on July 24, 2018. The meeting was called to order at 7:30 p.m. by Mayor Randal who asked that the Municipal Clerk to read the open public meetings statement:

The Combined Work Session and Regular 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". Adequate 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.

Roll Call:

Present: Mayor Randall, Council President Troast, Councilman Rorty, Councilman Iannelli, Councilman Fiato and Councilman Crossley

Absent: Councilman Shell

Also Present: David Bole, Municipal Attorney, William Jones, Borough Administrator, Deborah Fehre, Interim Municipal Clerk, Christopher Minchin, Chief of Police

Flag Salute: The Mayor led those present in a salute to the flag.

PROCLAMATION

National Night Out – Mayor Randall read the proclamation in full.

Approval of Minutes:

On a motion by Councilman Troast, seconded by Councilman Crossley, the April 24, 2018 Closed Session minutes were offered for approval.

Ayes: Councilmen Troast, Iannelli, Fiato and Crossley

Abstain: Councilman Rorty

Absent: Councilman Shell

On a motion by Councilman Fiato, seconded by Councilman Crossley, the June 19, 2018 Work Session and June 19, 2018 Closed Session minutes were offered for approval.

Ayes: Councilmen Troast, Rorty, Fiato and Crossley

Abstain: Councilman Iannelli

Absent: Councilman Shell

On a motion by Councilman Rorty, seconded by Councilman Crossley, the June 26 Regular Meeting minutes were offered for approval.

Ayes: Councilmen Troast, Rorty, and Crossley

Abstain: Councilman Iannelli and Fiato

Absent: Councilman Shell

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Payment of Claims

On a motion by Councilman Troast, seconded by Councilman Rorty, Resolution 18-81 Approve Vouchers and Purchase Orders for Bill List in the amount of \$1,647,390.60 was offered for approval.

Ayes: Councilman Troast, Councilman Rorty, Councilman Iannelli, Councilman Fiato, and Councilman Crossley,

Absent: Councilman Shell

18-81 Approve Vouchers and Purchase Orders for Bill List

WHEREAS, claims have been submitted to the Borough of Ho-Ho-Kus in the amount of \$1,647,390.60; and

WHEREAS, such claims have been listed according to Department and account number with corresponding vouchers to be reviewed and approved by the Mayor and Council; and,

WHEREAS, the CFO has determined that the funds have been properly appropriated for such purposes and are available, in the Borough of Ho-Ho-Kus and that the claims specified on the schedule attached hereto, following examination and approval by the Mayor and Council, be paid and checks issued accordingly; and,

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Ho-Ho-Kus that the claims totaling \$1,647,390.60 be approved and ratified respectively.

Department Reports: June 2018 - Mayor Randall announced that the reports are on file in the Clerk's office

Public Portion:

Mayor Randall opened the meeting the public for comment on any issue.

No comments.

Mayor Randall closed the public portion of the meeting.

ADMINISTRATORS REPORT

Mr. Jones introduced John Hanlon, Historian and Planning Board Chairman, who gave a presentation to the Mayor and Council regarding a historic sign for Ho-Ho-Kus Racetrack. The final draft was approved for recommendation to the Mayor and Council by the Ho-Ho-Kus Planning Board. It is recommended to place the sign at the entrance on Arbor Drive. The sign was reviewed by the DPW, meets all the guidelines of the Ho-Ho-Kus sign ordinance and will become the property of the Borough. Mr. and Mrs. Pianfetti have worked for many years to complete this sign. We contracted with Koch Monument for outline of the sign. Due to recent technology we are able to put emblems of an airplane, horse racing, auto racing mounted at top of sign. The QR code is done. He noted Mr. Policastro a new member who carried on the work finalizing the sign.

Councilman Iannelli asked when the sign would be installed and if the money raised was just for this one sign. Mr. Hanlon replied that the sign will be done when paid for and that the fundraising was originally for three signs, but they are starting with just this one.

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Mr. Hanlon also noted that they are grateful that Sue Ryer proofed the sign and knew of its completion before she passed.

Mayor Randall thanked Mr. Hanlon for the presentation and his efforts.

Mr. Jones displayed the mounted magazine article from New Jersey Monthly Magazine awarding Ho-Ho-Kus number one town in New Jersey, Best Places to Live. He announced that National Night Out has been promoted in conjunction with Allendale, Upper Saddle River, and Saddle River. It should be a fun night.

The tax bills are delayed due to state aid calculations for municipalities and schools. Once mailed, the residents will have 25 days to pay. The JIF Insurance renewal is on the agenda. We had our training JIF Training here for all of our supervisors on the 13th. September 6th will be training for Zoning/Planning Board members. Brandywine drainage project is complete. The 2018 Paving Project through shared services with northwest Bergen towns is coming up. Our project is under \$220,000.00. Arbor Drive, Eastgate Road and Deer Hill Drive will be paved.

We received a letter from Paramus regarding a resolution sent to the legislature asking for changes regarding the Government Records Council and if no change abolish. He explained that Paramus relied on an opinion of the Records Council only to lose in court and pay all legal and court fees. Their position is that if towns can't rely on the Records Council then why have a council. There are new rules in New Jersey regarding fireworks; the Borough should look into any necessity of issuing permits. Turn the Town Teal will take place in September, we have supported Chamber of Commerce with this in the past. A former resident of the Borough passed, her friends have asked for a candlelight vigil at the Town Green.

Mayor Randall invited the friends of the former resident to come forward and speak about the vigil.

Christine Stecker and Kristy Valentino, explained that Christine Danza who formally lived on Race Track Road, passed away after a tragic accident. Her family brought her out to Beaver, Pennsylvania by Cincinnati Ohio, and there was no service here. They would like to have a prayer service to say good bye. Mayor Randall asked the attorney David Bole, if there were any legal issues. Mr. Bole did not see any. He also asked the Chief if he saw any issues. The Chief was concerned with young people gathering in street and offered to call DPW to have that portion of the street closed. Mr. Jones will alert the residents of the road closure and look into posting the event on the town Facebook page.

Correspondence: Mayor Randall briefly reviewed the correspondence

Christopher Minchin, Police Chief – Leif Hanisch, Permanent Appointment
National Awareness Campaign for Ovarian Cancer - Turn the Town Teal
Borough of Paramus - Resolution asking Legislature to Amend Open Public Records Act
Bergen County Municipal Joint Insurance Fund – Membership Renewal
Perma Risk Management Service – Police Chief, Captain Lieutenant Training
Christine Stecker, Resident – Request to Hold Candlelight Vigil
JoAnn Carroll – Re: Planning Board recommendation for Historical Sign
NJ Division of Community Affairs – Fireworks in the State of New Jersey

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Closed Session: On a motion by Councilman Troast, seconded by Councilman Iannelli, the Mayor and Council approved entering into Executive Session, closed to the public.

All present in favor.

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:

- 4 -Matters relating to collective bargaining agreements
Ho-Ho-Kus Police and DPW Negotiations
- 7 -Matters relating to litigation, negotiations and attorney-client privilege
Zuckerman v. Ho-Ho-Kus – Tax Appeal
Anticipated Litigation – Solicitor Permits

Closed Session began at 8:03 p.m. and ended at 8:30 p.m.

On a motion by Councilman Troast, seconded by Councilman Rorty, the meeting returned to open public session. All present in favor.

Ordinance Introduction:

Ordinance 2018-09
An Ordinance To Amend And Supplement Chapter 40 Of The Code Entitled
“PEDDLERS, SOLICITORS AND CANVASSERS”

On a motion by Councilman Troast, seconded by Councilman Iannelli, the Introduction of Ordinance 2018-09 was tabled until further clarification of details that could be litigated are clarified.

Ayes: Councilmen Troast, Rorty, Iannelli, Fiato, and Crossley
Absent: Councilman Shell

Ordinance Adoption And Public Hearing:

ORDINANCE 2018-08
An Ordinance To Amend And Supplement Chapter 79 Of The Code Entitled
“Vehicles And Traffic”

On a motion by Councilman Rorty, seconded by Councilman Troast, Ordinance 2018-08 was approved for public hearing.

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Ayes: Councilmen Troast, Rorty, Iannelli, Fiato, and Crossley

Absent: Councilman Shell

Mayor Randall opened the meeting for the public hearing.

No comments from the public.

Mayor Randall closed the public hearing.

On a motion by Councilman Troast, seconded by Councilman Iannelli, the following Ordinance 2018-08 was offered for adoption.

Ayes: Councilmen Troast, Rorty, Iannelli, Fiato, and Crossley

Absent: Councilman Shell

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 79 OF THE CODE ENTITLED
“VEHICLES AND TRAFFIC”**

BE IT ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus, County of Bergen, State of New Jersey that Chapter 79 of the Code is hereby amended and supplemented as follows:

Section I

That Schedule III of Chapter 79-2E of the Code, is amended, in part, as follows:

<u>Street</u>	<u>Side</u>	<u>Time Limit</u>	<u>Location</u>
Warren Avenue	Both	6 Hours	From North Franklin Turnpike to Warren Avenue Bridge

Section II Repealer

All other provisions of this chapter which are not affected by this amendatory Ordinance are hereby ratified and confirmed and shall remain in full force and effect. However, all ordinances or parts of ordinances, which are inconsistent with the provisions of this amendatory Ordinance are hereby repealed to the extent of such inconsistency.

Section III Severability

If any portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the provision directly involved in the controversy in which such judgment shall have been rendered.

Section IV Effective Date

This ordinance shall take effect after final passage and publication as required by law.

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Resolutions:

Council President Troast read the following resolutions by title for the record.

On a motion by Councilman Troast, seconded by Councilman Rorty, the following resolutions were offered for approval.

Ayes: Councilmen Troast, Rorty, Iannelli, Fiato and Crossley

Absent: Councilman Shell

18-82 Recognize Change in Title Officer M. Mosca from Acting Sergeant to Sergeant

Whereas, M. Mosca was promoted to the rank of Acting Sergeant on April 24, 2018; and

Whereas, due to the adoption of Ordinance 2018-07 Amend and Supplement Chapter 46 of the Borough of Ho-Ho-Kus so as to Modify the table of organization was adopted on final reading on June 26, 2018; and

Whereas, it is desirable by the Mayor and Council of the Borough of Ho-Ho-Kus to officially recognize the title of Sergeant for Officer M. Mosca;

Now, Therefore be it Resolved by the Mayor and Council of the Borough of Ho-Ho-Kus that Officer M. Mosca be recognized as having the rank of Sergeant with all previous conditions and effective dates of the Acting Sergeant title.

18-83 Recognize Permanent Appointment Leif Hanisch, Police Officer Borough of Ho-Ho-Kus

WHEREAS, Christopher Minchin, Police Chief of the Borough of Ho-Ho-Kus, has submitted a letter to the Mayor and Council of the Borough of Ho-Ho-Kus informing same of the successful completion of the probationary period for new officers by Officer Leif Hanisch; and

WHEREAS, Police Chief Minchin recommends permanent appointment of Officer Leif Hanisch; and

WHEREAS, the Mayor and Council accept Police Chief Minchin's recommendation;

NOW THEREFORE BE IT RESOLVED by the Governing Body, that it does hereby acknowledge the permanent appointment of Leif Hanisch, to the Ho-Ho-Kus Police Department;

BE IT FURTHER RESOLVED that the compensation for said position shall be as set forth in such collective bargaining agreement as may be in effect between the Borough of Ho-Ho-Kus and PBA Local 353 as of the original date of hire.

18-84 Authorize Settlement Tax Appeal Zuckerman v. Ho-Ho-Kus

WHEREAS, Seymour and Eris Zuckerman are owners of real estate known as 8 Clearwater Drive, Ho-Ho-Kus, New Jersey, also known as Lot 8, Block 1207 on the Tax Map; and

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WHEREAS, the owners Seymour and Eris Zuckerman have filed tax appeals challenging the tax assessment for the years 2017-2018; and

WHEREAS, Lot 8 in Block 1207 was assessed for the tax years 2017-2018 in the total amount of \$1,127,800.00; and

WHEREAS, the Borough has completed full discovery with respect to this matter, has consulted with the Tax Assessor and has conducted exhaustive negotiations with counsel for the taxpayers;

WHEREAS, the parties have been able to arrive upon a proposed settlement agreement as follows: A revised assessment of \$1,050,000.00 for 2017 and \$975,000.00 for 2018; and

WHEREAS, the parties have agreed that pre-judgment interest shall be waived as a condition of the settlement; and

WHEREAS, the Borough's Tax Assessor, Edmund Brown, is in agreement with the terms of this settlement and believes that it would be in the best interests of the Borough to settle this particular case in accordance with the terms set forth above;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Ho-Ho-Kus agrees to authorize the Municipal Attorney to execute a Stipulation of Settlement on behalf of the Borough with respect to the Zuckerman v. Ho-Ho-Kus tax appeals pending in the Tax Court of New Jersey under Docket Nos. 005829-2017 and 02482-2018 at the new assessments set forth above; and

BE IT FURTHER RESOLVED, that upon receipt of the Tax Court Judgment, the Tax Collector is hereby authorized to calculate the amount of the refund and cause same to be paid to the taxpayers without statutory interest within 60 days from the date of the Tax Court Judgment; and

BE IT FURTHER RESOLVED, that following adoption a true copy of the within Resolution shall be provided to the Tax Collector, Chief Financial Officer, Tax Assessor and Municipal Attorney.

18-85 Authorize Membership Renewal Bergen County Municipal Joint Insurance Fund

WHEREAS, the Borough of Ho-Ho-Kus is a member of the Bergen County Municipal Joint Insurance Fund; and

WHEREAS, said renewed membership terminates as of December 31, 2018 unless earlier renewed by agreement between the Municipality and the Fund; and

WHEREAS, the Municipality desires to renew said membership;

NOW THEREFORE, be it resolved as follows:

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1. The Borough of Ho-Ho-Kus agrees to renew its membership in the Bergen County Municipal Joint Insurance Fund and to be subject to the Bylaws, Rules and Regulations, coverages, and operating procedures thereof as presently existing or as modified from time to time by lawful act of the Fund.

2. The Mayor and Clerk shall be and hereby are authorized to execute the agreement to renew membership annexed hereto and made a part hereof and to deliver same to the Bergen County Municipal Joint Insurance Fund evidencing the Municipality's intention to renew its membership.

18-86 Grant Permission for Candlelight Vigil by Resident of Ho-Ho-Kus

WHEREAS, Christine Stecker, resident of Ho-Ho-Kus, has requested permission to hold a candlelight vigil, together with a group of women from the ho-Ho-Kus Inn, to honor their dear friend Christine Danza of Ho-Ho-Kus who has passed away; and

WHEREAS, the Candlelight Vigil will be held on July 30, 2018 at 8:30 p.m. at the Town Green and Gazebo;

NOW THEREFORE, be it resolved that the Mayor and Council of the Borough of Ho-Ho-Kus gives permission to Christine Stecker and friends to hold the Candlelight Vigil for Christine Danza.

18-87 Forgiveness of Solid Waste Bill

WHEREAS, 755 East Saddle River Road, 115 Jacquelin Ave., 26 Prescott Road, 21 N. Saddle Brook Drive, 524 Eastgate Road, 303 Ardmore Road, 806 West Saddle River Road, 47 Arbor Drive, 61 Lloyd Road, 109 Blauvelt Avenue are lots under construction; and

WHEREAS, 262 Wearimus Road is vacant; and

WHEREAS, the above residential structures will be credited for one (1) quarter and then be reviewed for the balance.

NOW THEREFORE, be it resolved that the bills in question be cancelled.

18-88 Turn the Towns Teal – Authorize Mayor to Sign Letter Granting Permission

WHEREAS, Turn The Towns Teal ® is a national campaign to create awareness of ovarian cancer and its symptoms which are often subtle; and

WHEREAS, the campaign consists of volunteers tying ribbons primarily in town centers, stores, health clubs, spas, libraries, etc. with symptom cards and information pertaining to ovarian cancer during the month of September, National Ovarian Cancer Month; and

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WHEREAS, the campaign also includes lawn signs for more impact;

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Ho-Ho-Kus authorizes the Mayor to sign the letter granting the campaign permission to Turn the Town Teal.

18-89 Approve Historical Sign, Ho-Ho-Kus Race Track

WHEREAS, the Planning Board of the Borough of Ho-Ho-Kus reviewed the above-referenced historical sign application and after review of the documents submitted and information presented at multiple hearings, the Board, at its July 19, 2018 meeting, approved a motion recommending that the governing body adopt a resolution to permit the applicant to erect the sign, subject to the information contained in the application and the provisions of Section 85-37K(9) of the Zoning Code; and

WHEREAS, the Planning Board does recommend one correction to the application which is the QR code should contain the Borough logo only and not any wording; and

WHEREAS, in accordance with the above, the Planning Board recommends approval of the proposed historical sign by the governing body; and

WHEREAS, a representative of the Historical Society has made a presentation informing the public and the Mayor and Council regarding the sign application; and

WHEREAS, the Mayor and Council of the Borough of Ho-Ho-Kus agrees with the recommendation of the Planning Board;

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Ho-Ho-Kus hereby approves the historical sign for Ho-Ho-Kus Race Track as stipulated in the application to the Planning Board including the correction recommended by the Board regarding the QR code; and

BE IT FURTHER RESOLVED, that the application and supporting documents remain on file in the Planning Board Secretary's office; and

BE IT FURTHER RESOLVED that this resolution takes effect immediately upon passage.

18-90 Request Legislature to Amend or Abolish Open Public Records Act

**Resolution Calling For The Legislature To Amend The Open Public Records
Act To Permit Municipalities To Rely On The Government Records Council As A Defense
To Attorneys' Fees Or
To Abolish The Government Records Council Altogether**

Whereas, the Open Public Records Act ("OPRA") creates an administrative agency called the Government Records Council ("GRC"); and

Whereas, one of the purposes of the GRC is to issue "advisory opinions" to municipalities on compliance with OPRA; and

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Whereas, the normal purpose of an administrative agency like the GRC is to provide guidance for regulated community on the subject matter of the agency; and

Whereas, a requestor challenging a denial of access under OPRA has the choice of whether to file in Superior Court or with the GRC; and

Whereas, OPRA states that GRC opinions are not precedential in complaints filed in Superior Court challenging a denial of access under OPRA; and

Whereas, the current structure of OPRA allows a requestor to take advantage of the GRC when it has issued opinions favorable to the requestor's case but to disregard the GRC altogether when it is more favorable for the requestor; and

Whereas, municipalities routinely rely on the GRC for guidance and the GRC even has a "hotline" for custodians of records to call for guidance; and

Whereas, under OPRA municipalities must pay attorneys' fees to a requestor who prevails in a challenge to a denial of access; and

Whereas, OPRA does not give the GRC or the Superior Court any discretion on whether to award attorneys' fees, even when a municipality relies on a GRC opinion that is ultimately held to be wrong; and

Whereas, for example, in Scheeler v. Atl. Cnty. Mun. Joint. Ins. Fund, ___ N.J.Super. ___ (App Div. May 16, 2018), the Appellate Division rejected a GRC opinion that OPRA contained a citizenship requirement; and

Whereas, several municipalities, including Paramus, had relied upon that GRC opinion and had to pay attorneys' fees in denial of access complaints even though they relied on that opinion; and

Whereas, if the regulated community cannot rely on the GRC then the GRC should not issue opinions;

NOW THEREFORE BE IT RESOLVED, that the Borough of Ho-Ho-Kus requests that the legislature amend OPRA to provide either that good faith reliance on a GRC opinion is a defense to the award of attorneys' fees in a denial of access complaint or that the GRC simply be abolished.

Old Business – no old business

Liaison Reports

Recreation - Councilman Iannelli reported that there are two baseball championship teams 12 year travel and 9 year travel. Baseball is officially over. We are getting ready for football. Football had a light turnout this year in registrations; program begins August 13, 2018. On Aug 23rd there will be a scrimmage with the bulldogs. The Junior and Senior teams will play at Highlands new artificial turf field. The pee wee team will play on the grass. Family day will be the same day. All members of the Bulldogs and Indians are welcome

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with their families. The High School is trying to get their arms around young athletes engaging the local schools before high school.

Board of Education – no report

Ambulance Corps. – Councilman Crossley reported that the ambulance team continues to serve the community, but the business meetings are in recess until September.

Library – no report

Shade Tree – no report

Chamber of Commerce - Councilman Shell absent, Mr. Jones noted that the town will participate in turn the town teal again this year in support of awareness of Ovarian Cancer.

New Business – no new business

Mayor's Remarks – no remarks

Christopher Minchin, Police Chief, reported that all is in order for National Night out. It will take place in Allendale at Crestwood Lake in conjunction with Saddle River, Upper Saddle River as well. They will be checking ID to be sure attendees are from one of the four towns.

Councilman Iannelli asked at what age a teenager may attend without parents. Chief answered 16, they must show their school ID.

Adjournment

On a motion by Councilman Crossley, seconded by Councilman Rorty the meeting was adjourned at 8:40. All members present in favor.

Respectfully submitted,

Deborah L. Fehre, RMC
Interim Municipal Clerk