

Borough of Ho-Ho-Kus
County of Bergen
Mayor and Council Regular Meeting
September 25, 2018 7:30 p.m.

The Regular Session 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 September 25, 2018. The meeting was called to order at 7:31 p.m. with the following present.

Mayor.....	Thomas W. Randall
Council President.....	Douglas Troast
Councilman.....	Steven Shell
Councilman.....	Edward Iannelli
Councilman.....	Kevin Crossley
Councilman.....	Philip Rorty
Administrator.....	William Jones
Municipal Attorney....	David Bole
Municipal Clerk.....	Joan Herve
<u>ABSENT:</u>	
Councilman.....	Tom Fiato

STATEMENT – (read by Municipal Clerk)

The Public Session 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.

FLAG SALUTE:

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

APPROVAL OF MINUTES

A motion was offered by Council President Troast and seconded by Council Crossley to approve the Minutes of the August 21, 2018 combined Work and Regular Meeting. Motion carried on a voice vote – all present voting “Aye:

DEPARTMENT REPORTS

August 2018 Department reports are on file in the Municipal Clerk’s office

PUBLIC DISCUSSION

Mayor opened the meeting to the public. He stated if anyone desired to be heard, please raise your hand and to be recognized, come forward to the microphone and state your name and address for the record.

Seeing none, the Mayor closed the meeting to the public.

ADMINISTRATOR’S REPORT

Administrator Jones stated to the Council that he would like to have a close session at the end of the regular meeting to discuss contract negotiations and Ho-Ho-Kus water infrastructure system.

CORRESPONDENCE

INTRODUCTION OF ORDINANCES:
ORDINANCE #2018-09

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 40 OF THE CODE ENTITLED "PEDDLERS,
SOLICITORS AND CANVASSERS"**

BE IT ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus, County of Bergen, State of New Jersey that Chapter 40 of the Code is hereby amended and supplemented as follows:

Section 40-4. Application for License is amended as follows:

- A. The name and physical description of the person applying and desiring to solicit funds or to peddle, solicit or otherwise canvass.
- B. Whether the person applying is a natural person, partnership, corporation, association or limited liability company, and:
 - (1) to (4): No change.
 - (5) If a limited liability company, the names of all members, the principal business address and telephone number of the limited liability company and the state where such company is organized.
- C. to I. No change.
- J. The names of any officer, director, trustee, partner, stockholder, peddler, solicitor, canvasser or member who has been convicted of a felony or a misdemeanor or found liable in a civil action involving any solicitation or transaction or enterprise found to be fraudulent within the past 10 years, the nature of the offense or liability, the state where the conviction or judgment occurred and the year of such conviction or judgment.
- K. No change.
- L. Signature. The application must be signed by the applicant if the person applying is an individual; if the person applying is a partnership, by a partner in charge; if the person applying is a corporation, association or limited liability company, by an officer or member authorized to execute such application.
- M. No change.
- N. The fingerprints of the applicant and the names of at least two reliable property owners of the County of Bergen and State of New Jersey who will certify as to the applicant's good character and business respectability; in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

Section 40-5. Investigation and issuance of license is amended as follows:

- A. No change.
- B. Within 24 hours of receipt of a complete application, the Borough Clerk shall forward the original to the Chief of Police. The Chief of Police shall cause to be made an investigation of the information supplied on the application and shall determine if the requirements of this article have been met.
 - (1) No change.
 - (a), (b) No change.
 - (2) In reaching such determination, the Chief of Police shall be governed by, but not necessarily be limited to, the following criteria:
 - (a) to (c) No change.
 - (d) Evidence that the applicant's activities have caused a breach of the peace or unethical or dishonest business practices or have been a menace to the health, safety or general welfare of the public.
 - (e) Evidence of fiscal irresponsibility or immoral character.
 - (f) If applicant has prior arrests, failure to list any prior arrests on the application form.
- C. No change.
- D. Licenses shall be issued no later than seven (7) days after receipt of a complete application.

Section 40-7. Fees is amended as follows:

- A. No change.
- B. Repealed.
- C. No change.

Section 40-9. Regulations is amended as follows:

- A. to C. No change.
- D. No person covered by this article shall sell or attempt to sell in accordance with the terms this article before 10:00 a.m. or after sunset, Monday through Saturday, or at any time on Sundays. The aforesaid time limitation shall not apply to persons who are expressly invited into homes by the occupant thereof.
- E. No change.
- F. No licensee shall violate Chapter 40-18 to 40-20 of the Code, Ordinance No. 2016-10.
- G. No licensee shall conduct himself in such manner as to become objectionable to or annoy an occupant of any house.
- H. No licensee shall call at any private residence which has sign bearing words to the effect that peddlers, solicitors or canvassers are not invited.
- I. No licensee shall attempt to peddle, solicit, canvass or distribute merchandise or printed material without first having identified himself as a peddler, solicitor or canvasser licensed with the Borough and displaying his license.

Section 40-10. Exceptions is amended as follows:

- A. to E. No change.
- F. Notwithstanding any provision of this article to the contrary pertaining to the permitted hours of solicitation, and fingerprinting such provisions shall not apply to political solicitation and canvassing, nor to persons or groups soliciting or canvassing on behalf of political persons or groups. Such

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solicitation shall be permissible between the hours of 9:00 a.m. and 9:00 p.m. daily and no fingerprinting shall be required. Such persons or organizations shall comply with the provisions of **Subsection D** hereof. This amendment is intended to assure compliance by the Borough of Ho-Ho-Kus with the mandate of the Supreme Court of the United States as set forth in recent cases.

Section 40-11. Revocation of license is amended as follows:

- A. No change.
 - 1. to 4. No change.
 - 5. Conviction of violating Section 40-18 to 40-20 of the Code, Ordinance No. 2016-10.

Severability.

If any section, sentence or any other part of this article is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this article but shall be confined in its effect to the section, sentence or other part of this article directly involved in the controversy which such judgment shall be rendered.

Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this article are hereby repealed but only to the extent of such inconsistencies.

Effective Date.

This chapter shall take effect upon final passage and publication as provided by law

A motion was offered by Council President Troast and seconded by Councilman Crossley to approve Introduction of Ordinance #2018-09. Motion carried on a roll call vote – All present voting “Aye”.

ORDINANCE #2018-10

AN ORDINANCE AMENDING CHAPTER 85 THE CODE OF THE BOROUGH OF HO-HO- KUS, BERGEN COUNTY, NEW JERSEY SO AS TO ESTABLISH A NEW SECTION ENTITLED “TOBACCO SHOPS, SMOKE SHOPS, CANNABIS SHOPS AND ELECTRONIC VAPOR SUBSTANCE INHALATION SHOPS”

BE IT ORDAINED by the Governing Body of the Borough of Ho-Ho-Kus, Bergen County, New Jersey that Chapter 85 of the Code of the Borough of Ho-Ho-Kus is hereby amended and supplemented so as to establish a new Section entitled “Tobacco Shops, Smoke Shops, Cannabis Shops and Electronic Vapor Inhalation Shops” as follows:

85:45.1a Tobacco Shops, Smoke Shops, Cannabis Shops and Electronic Vapor Substance Inhalation Shops

85:45.2 Purpose.

The purpose of this Section is to regulate the location and operation of retail purveyors of tobacco and tobacco products, cannabis, electronic vapor devices, electronic vapor inhalation substances, hookahs, and electronic/vapor substance inhalation shops in the Borough of Ho-Ho-Kus, Bergen County, New Jersey in order to maintain the Borough’s character, the diversity and vitality of the community’s commercial areas, and the quality of life of Ho-Ho-Kus residents. It is presumed that establishing or preserving an appropriate and balanced mix of commercial business will more effectively serve to achieve this purpose as a strategy to maintain the economic health of the Borough’s business districts and its suburban ambiance, and will promote the redevelopment of the Borough’s downtown area.

85:45.3 Title.

This Section may be known and cited as “Tobacco Shops, Smoke Shops, Cannabis Shops and Vapor Inhalation Shops Regulations.”

Definitions.

The words and terms used in this Section shall have the meanings as provided herein. Where words or terms are not defined in this section they shall have the meanings ordinarily ascribed to them. Should any word, term or phrase defined in this section conflict with any other word, term or phrase defined in this title, the definitions provided in this section shall apply.

“**Advertising**” means media (printed, electronic or otherwise) that calls the public’s attention to things for sale.

“**Business**” means any sole proprietorship, joint venture, Limited Liability Company, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

“**Borough Administrator**” means the Borough Administrator of the Borough or the Borough Administrator’s designee.

“**Cannabis**” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin and/or oil extracted from any part of the plant; every compound, manufacture, salt, derivative, mixture, concentrate, or preparation of the plant, its seeds, or resin; and edible or topical products containing any of the above.

“**Cannabis retailer**” means any person or entity that operates a store, stand, booth, concession, or other place at which sales, rentals, or other giveaways of cannabis products are made to purchasers for consumption or use.

“**Cannabis shop**” means any store, stand, booth, concession or other place which sells, manufactures, grows, rents or gives away cannabis or any product containing cannabis or allows or permits the use or consumption of cannabis or any product containing cannabis.

“**Creation of a tobacco or smoke shop or an electronic/vapor substance inhalation shop**” means:

1. The opening or commencement of any such establishment as a new establishment; or
2. The conversion of an existing establishment, to a tobacco or smoke shop establishment or an electronic/vapor substance inhalation shop establishment as defined in this chapter; or

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3. The relocation of any such establishment.

“Electronic vapor device” means any device with a heating element, a batter, or an electronic circuit that provides nicotine or other vaporized liquids to the user in a manner that simulates tobacco products, shisha, herbs, or any other product that produces smoke.

“Electronic/vapor inhalation substance products” means cartridges, cartomizers, e-liquid, smoke juice, tanks, tips, atomizers, vaporizers, electronic smoking device batteries, electronic smoking device chargers, and any other item specifically designed for the preparation, charging, or use of electronic vapor devices.

“Electronic/vapor substance inhalation shops” are defined as those businesses where customers can smoke or inhale vapor from electronic/vapor inhalation substance products, commonly known as “electronic cigarettes,” “e-cigarettes,” “e-cigars,” e-cigarillos,” “e-pipes,” e-hookahs,” “electronic nicotine delivery systems,” and other similar devices.

“Employee” means any person who is employed by an employer for consideration for direct or indirect wages or profit, or is an independent contractor, agent or consultant of an employer and any person who volunteers his or her services for a nonprofit entity.

“Hookah” means a pipe commonly, but not always, made of glass, used for vaporizing and smoking tobacco, flavored tobacco, non-flavored tobacco, shisha, dried fruits, cannabis or other substances in which vapor or smoke is passed through a water basin before inhalation.

“Minor” means any individual who is less than 21 years old.

“Nonprofit entity” means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational, character-building, political, social, or other similar purpose, the net proceeds from the operation of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a nonprofit entity within the meaning of this section.

“Person” means any individual, partnership, cooperative association, private or Private Corporation, limited liability company, personal representative, receiver, trustee, assignee, or any other legal entity.

“Public playground/park/recreation area” means an area to which the public, and particularly minors, come to participate in athletic or recreational activities, whether or not such activities are supervised or organized. Such areas include, but are not limited to, publicly owned and maintained parks, athletic fields, playgrounds, picnic areas, any outdoor premises or grounds owned or operated by the Borough, a public or private school, child care center, and any youth or recreational facilities that contains any play or athletic equipment used or intended to be used by minors.

“School” means an institution of learning for minors, whether public or private, preschool or day care services, kindergarten, elementary school, junior high school, senior high school, or any special institution of learning, a vocational or professional institution or an institution of higher education, including a community or junior college, college, or university.

“Self-service merchandising” means open display of tobacco products and point-of-sale tobacco-related promotional products that the public has access to without the intervention of an employee.

“Tobacco product” means (1) any product containing tobacco leaf including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human lungs or mouth in smoke or vapor form, using any tobacco paraphernalia, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

“Tobacco retailer” means any person or entity that operates a store, stand, booth, concession, or other place at which sales, rentals, or other giveaways of tobacco products, electronic vapor devices, electronic vapor inhalation substances, and hookahs are made to purchasers for consumption or use.

“Tobacco or smoke shop” means any store, stand, booth, concession, or other place that either devotes a substantial portion of its display area (i.e., fifteen percent or more of floor space) to tobacco products, or devotes more than sixteen cubic feet of shelf space, for the display or sale of tobacco or drug paraphernalia to purchasers for consumption or use. This definition includes electronic vapor devices, electronic vapor inhalations substances and hookahs.

“Transfer of ownership or control of a tobacco or smoke shop or an electronic/vapor substance inhalation shop” means:

1. The sale, lease or sublease of such establishment; or
2. The transfer of securities which constitute a controlling interest in such establishment, whether by sale, exchange, merger, or similar means; or
3. The establishment of a trust, gift or other similar legal devise which transfers ownership or control of such establishment, except for transfer by bequest or other operation of law upon the death of the person possessing such ownership or control.

“Tobacco vending machine” means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, that dispenses or releases a tobacco product.

“Zoning Code” means Chapter 85 of the Borough Code of the Borough of Ho-Ho-Kus, Bergen County, New Jersey, as it may be amended from time to time.

85:45.4 Tobacco or smoke shop, or electronic/vapor substance inhalation shop conditional use permit required.

No Person shall cause or permit (i) the creation of a tobacco or smoke shop or an electronic/vapor substance inhalation shop, (ii) any substantial enlargement of a tobacco or smoke shop or an electronic/vapor substance inhalation shop, or (iii) the transfer of ownership or control of any tobacco or smoke shop or electronic/vapor substance inhalation shop, without first obtaining and maintaining a conditional use permit as provided in this chapter.

85:45.5 Development standards – General and specific.

An application for a conditional use permit shall be approved by the planning board upon a determination that all of the following standards have been met.

- A. The tobacco or smoke shop, or electronic/vapor substance inhalation shop shall be located within a permitted zone. Tobacco or smoke shops, or electronic/vapor substance inhalation shops may be located only within the GB District. No such establishment shall be permitted to locate in any area outside such zoning classifications.
- B. The tobacco or smoke shop, or electronic/vapor substance inhalation shop shall meet the following minimum spacing and proximity requirements:
 1. No tobacco or smoke shop, or electronic/vapor substance inhalation shop shall be located within one mile of any other such shop.
 2. No tobacco or smoke shop, or electronic/vapor substance inhalation shop shall be located within one mile of any parcel of land zoned for residential use.
 3. No tobacco or smoke shop, or electronic/vapor substance inhalation shop shall be located within one mile of any parcel of land that contains any one or more of the following specific land uses:
 - a) Religious facility;

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- b) Courthouse;
- c) Day nursery;
- d) Public playground/park/recreation area;
- e) School;
- f) Vocational or professional institution; or
- g) Institution of higher education, including community or junior college, college or university.

4. No tobacco or smoke shop, or electronic/vapor substance inhalation shop located in a building sharing one or more common walls with another retail or commercial establishment, or sharing common attic space with any other use, shall permit smoking or use of any electronic vapor device or hookah anywhere on the premises.

C. The tobacco or smoke shop, or electronic/vapor substance inhalation shop shall be in substantial compliance with the requirements of all health and safety codes, including, but not limited to, the building code, fire code, electrical code, mechanical code and plumbing code. Unless delay is caused by refusal of applicant to schedule or permit timely inspection, substantial compliance shall be verified no later than 30 days following the application or the applicant shall be deemed to be in substantial compliance with such requirements for the purposes of permit issuance.

D. The tobacco or smoke shop, or electronic/vapor substance inhalation shop shall be in substantial compliance with the development standards for the commercial zone in which the establishment is to be located, and with the general provisions of Chapter 85 relating to development standards and of Section 85:37 relating to sign regulations, except that, to the extent that provisions of this Section may conflict or be more restrictive, this Section 85 shall control.

E. The tobacco or smoke shop, or electronic/vapor substance inhalation shop meets the following minimum specific standards:

1. No person or business shall engage in the sale of tobacco products, hookahs, electronic vapor devices and/or electronic/vapor inhalation substance products without first posting a plainly visible sign at the point of purchase of tobacco products, hookahs, electronic vapor devices and/or electronic vapor inhalation substance products that has wording similar to:

“THE SALE OF TOBACCO PRODUCTS, HOOKAHS, AND ELECTRONIC VAPOR DEVICES AND PRODUCTS TO PERSONS UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO PENALTIES. PHOTO IDENTIFICATION IS REQUIRED OF PURCHASERS APPEARING TO BE 26 YEARS OF AGE AND YOUNGER.”

The letters of the sign shall be at least one-quarter inch high, as set forth in the N.J. Department of Health Tobacco Control Regulations.

2. No person, business, tobacco retailer, or owner, manager, employee or operator of any establishment subject to this section shall sell, offer to sell or permit to be sold any tobacco or tobacco product, electronic vapor devices, hookahs and/or electronic/vapor inhalation substance products to an individual without requesting and examining identification of customers appearing to be 26 years and younger for the purpose of establishing the purchaser’s age as 21 years or greater, unless the seller has some other clear or convincing basis for determining the buyer’s age.

3. No person, business, tobacco retailer or other establishment shall sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.

4. It shall be unlawful for any person, business or tobacco retailer to sell, permit to be sold, offer for sale or display for sale any tobacco product, electronic vapor devices and/or electronic/vapor inhalation substance products by means of self-service merchandising or by means other than vendor-assisted sales.

5. No person, business or tobacco retailer shall locate, install, keep, maintain, or use, or permit the location, installation, keeping, maintenance, or use on his, her or its premises, any tobacco vending machine for the purpose of selling or distributing any tobacco product.

6. It shall be unlawful for any person, business or tobacco retailer to distribute free tobacco products or promotional items, except in enclosed areas where minors are not permitted.

7. In addition to the standards in this chapter, each tobacco or smoke shop, or electronic/vapor substance inhalation shop shall comply with each and every provision of this code.

85:45.6 Measure of distance.

Distance, without regard to intervening structures, shall be a straight line measured from the closest exterior structural wall of a tobacco or smoke shop or electronic/vapor substance inhalation shop to the closest property line of a religious facility, courthouse, day nursery, public playground/park/recreation area, school, residential zone, vocational or professional institution, institution of higher education, including community or junior college, college, university, other tobacco shops or smoke shops.

85:45.7 Prohibited in all Districts.

- a. Cannabis shops and/or retailers.

85:45.8 Violation; Penalty.

a. Any person, firm or corporation violating any of the provisions of this chapter may be charged with either an infraction or a misdemeanor and shall be subject to the provisions of the penalty clause as set forth in Section 1-16 of this code.

b. Each person found guilty of a violation shall be deemed guilty of a separate offense for every day during any portion of which a violation of any section of this Ordinance is committed, continued or permitted by such person, and shall be punishable as provided for in Section 1-16. Any use or occupation of any building or structure maintained contrary to the provisions of this title shall constitute a public nuisance.

85:45.9 Conflicts with other applicable laws.

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This chapter shall not be interpreted or construed to permit tobacco vending machines and distribution of tobacco product samples where they are otherwise restricted by other applicable laws. Nor shall this chapter be construed to be cause for breach of any pre-existing private contract, or cause for interference with regulations imposed by state or federal law or related to interstate commerce.

85:45.10 Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this Section are hereby repealed to the extent of such inconsistency.

85:45-11 Severability.

Each subsection, sentence, clause and phrase of this section is declared to be an undisputed subsection, sentence, clause and phrase, and the finding or holding of any such part of this section to be unconstitutional, void or ineffective for any cause or reason shall not affect any other portion of this section.

85:45-12 Effective Date.

A motion was offered by Council President Troast and seconded by Councilman Crossley to approve Introduction of Ordinance #2018-10. Motion carried on a roll call vote – All present voting “Aye”.

CONSENT RESOLUTIONS (18-104 thru 18-112)

Resolution #18-104 - Introduced by Council President Troast

A Resolution - Payment of bills – September 2018

WHEREAS, claims have been submitted to the Borough of Ho-Ho-Kus in the amount of \$2,236,473.45; 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;
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Ho-Ho-Kus that the claims totaling \$\$3,072,760.38 be approved and ratified respectively.

Resolution #18-105 - Introduced by Council President Troast

A Resolution - Amend Resolution 2018-99 Borough Employee Salaries and Wages

WHEREAS, Ordinance # 2016-03 establishes salary ranges for employees; and
WHEREAS, said ordinance requires that individual salaries be set by Resolution; and
WHEREAS, a typographical error occurred regarding the implementation date for the Water Licensed Operator of Record/Public Works Forman;
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Ho-Ho-Kus that Resolution 18-99 be amended as follows:

From

Water Licensed Operator of Record/Public Works Forman \$90,515* as of 7/1

To

Water Licensed Operator of Record/Public Works Forman \$90,515

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Payroll Supervisor.

Resolution #18-106- Introduced by Council President Troast

A Resolution - Authorize – Bergen County Shared Services Agreement – Snow Plowing/Salting

WHEREAS, the Mayor and Council of the Borough of Ho-Ho-Kus desires to enter into an agreement with the County of Bergen to provide snow plowing and salting services on county roads, and
WHEREAS, the period of service would be October 1, 2018 through April 30, 2020, and
WHEREAS, the Municipality shall be compensated by the County at a rate of one hundred ten dollars (\$110) per hour of active plowing, and
WHEREAS, the municipality agrees to provide the County with the insurance requirements outlined in item 3 of the agreement, and
WHEREAS, the County will continue to provide the municipality with salt sufficient to allow the municipality to salt county roads in the same manner and whenever conditions are such that the municipality salts its municipal streets.
NOW THEREFORE BE IT FURTHER RESOLVED that the Mayor and the Borough Clerk are hereby authorized and

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directed to execute said agreement.

Resolution #18-107- Introduced by Council President Troast

**A Resolution - Authorize Appointment of Municipal Representatives - Bergen County Community
Development Regional Committee**

WHEREAS, the Municipality of the Borough of Ho-Ho-Kus has entered into a three year Cooperative Agreement with the County of Bergen as provided under the Interlocal Services Act N.J.S.A. 40A:8a-1 et seq. and Title 1 of the Housing and Community Development Act of 1974; and

WHEREAS, said Agreement requires that the Municipal Council appoint a representative and alternate and that the Mayor appoint a representative and alternate for the FY 2018-2019 term starting July 1, 2018 and ending on June 30, 2019.

NOW, THEREFORE, BE IT RESOLVED that the Municipal Council hereby appoints William Jones as its representative and Thomas Randall as its alternate and that the Mayor hereby appoints himself, Thomas Randall as mayoral representative and William Jones as his alternate to serve on the Community Development Regional Committee for FY 2017-2018; and

BE IT FURTHER RESOLVED that an original copy of this resolution be forwarded to Robert G. Esposito, Director; Bergen County Division of Community Development; One Bergen County Plaza, Fourth Floor; Hackensack, New Jersey 07601 for receipt no later than Friday, October 12, 2018.

Resolution #18-108- Introduced by Council President Troast

A Resolution - Authorize Tax Appeal Settlement East Franklin Turnpike, LLC v. Ho-Ho-Kus

WHEREAS, East Franklin Turnpike, LLC are owners of certain real estate known as 181-201 East Franklin Turnpike and 4-8 Sycamore Avenue, Ho-Ho-Kus, New Jersey, also known as Lot 10 in Block 1010; and WHEREAS, the owner East Franklin Turnpike, LLC has filed tax appeals challenging the tax assessments for the years 2015-2018; and

WHEREAS, Lot 10 in Block 1010 was assessed for the tax years 2015-2018 in the total amount of \$3,727,700; and

WHEREAS, the Borough has completed full discovery with respect to this matter, has consulted with the Borough's Appraiser Louis Isenberg, and has conducted exhaustive negotiations with counsel for the taxpayer; and

WHEREAS, the parties have been able to arrive upon a proposed settlement agreement as follows: Taxpayer to withdraw tax appeals 2015 to 2017; a revised assessment for 2018 of \$3,477,700 with a reciprocal application of the Freeze Act to apply for the year 2019; 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 and the Borough's real estate Appraiser Louis Izenberg are in agreement with the terms of the settlement and believe that it would be in the best interest 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 of Ho-Ho-Kus with respect to the East Franklin Turnpike, LLC tax appeal pending in the Tax Court of New Jersey under Docket Nos. 006171-2015, 000833-2016, 001377-2017, 000930-2018 based upon the terms set forth above;

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 taxpayer without statutory interest, within 60 days from the date of the Tax Court Judgment; and

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BE IT FURTHER RESOLVED, that this settlement is contingent upon acceptance thereof by plaintiff; and
BE IT FURTHER RESOLVED, that a true copy of this Resolution be filed with the Tax Collector, Chief Financial Officer, Tax Assessor and Municipal Attorney.

Resolution #18-109- Introduced by Council President Troast

A Resolution - Authorize Tax Appeal Settlement Brian and Jayne Bauer v. Ho-Ho-Kus

WHEREAS, Brain Bauer and Jayne Bauer are owners of real estate known as Lot 2, Block 403 at 130 Mill Road, Ho-Ho-Kus, New Jersey; and

WHEREAS, the owners Brain Bauer and Jayne Bauer have filed a tax appeal challenging the tax assessment for the year 2017; and

WHEREAS, Lot 2 in Block 403 was assessed for the 2017 – 2019 tax years in the total amount of \$2,410,00; and

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

WHEREAS, the parties have been able to arrive upon a proposed settlement agreement as follows: a revised assessment for 2017 and 2018 of \$2,250,000 and a revised assessment for 2019 of \$2,000,000; 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 the 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 of Ho-Ho-Kus with respect to the Bauer v. Ho-Ho-Kus tax appeal pending in the Tax Court of New Jersey under Docket No. 003844-2017 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 taxpayer, without statutory interest, within 60 days from the date of the Tax Court Judgment; and

BE IT FURTHER RESOLVED, that this settlement is contingent upon acceptance thereof by plaintiff; and

BE IT FURTHER RESOLVED, that upon adoption of the within Resolution, a certified copy shall be filed with the Tax Collector, the Tax Assessor, the Chief Financial Officer and the Municipal Attorney.

Resolution #18-110- Introduced by Council President Troast

A Resolution – Appoint Sergeant Leonard – 911 Coordinator for the Borough of Ho-Ho-Kus

WHEREAS, the Borough of Ho-Ho-Kus is required pursuant to State law and the regulations of the State Department of Treasury to appoint a coordinator for the Borough's emergency telephone system ("9-1-1 System"); and

WHEREAS, the municipal coordinator of the 9-1-1 System is responsible for maintaining a plan for enhanced emergency services throughout the Borough and for developing such revisions to the plan as may be necessary for review by the Mayor and Council of the Borough; and

WHEREAS, the Borough is empowered by law to appoint and employ professionals, technical advisors and experts as the Borough may determine to be necessary for its efficient operation; and

WHEREAS, the Borough has received a written recommendation from Police Chief Christopher Minchin, requesting the appointment of Sergeant Patrick Leonard to serve as the municipal coordinator of the 9-1-1 System; and

WHEREAS, the Mayor and Council of the Borough of Ho-Ho-Kus are desirous of appointing Sergeant Patrick Leonard to serve as municipal coordinator for the 9-1-1 System in accordance with the requirements and procedures mandated under N.J.S.A. 52: 17C-1 et seq. and N.J.A.C. 17:245.,1 et seq.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus, as follows:

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1. That Sergeant Leonard of the Ho-Ho-Kus Police Department is hereby appointed to serve as the municipal coordinator for the Borough's 9-1-1 System.
2. That Sergeant Leonard shall perform all such duties and carry out all of the responsibilities as set forth in the existing plan for enhanced emergency services throughout the Borough and in accordance with the requirements and procedures mandated under N.J.S.A. 52:17C-1 et seq. and N.J.A.C. 17:24-5.,1 et seq.
3. That no further action of the Borough shall be required.

Resolution #18-111- Introduced by Council President Troast

A Resolution - Addition to Personnel Handbook, Rules and Regulations

WHEREAS, the Borough of Ho-Ho-Kus has previously adopted a Personnel Handbook as well as Personnel Rules and Regulations pursuant to Chapter 42 of the Borough Code; and

WHEREAS, the Borough's Municipal Excess Liability Joint Insurance Fund has issued a Bulletin requesting that its member municipalities adopt certain Open Public Meetings Act procedures concerning personnel matters;

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body that it does hereby approve and incorporate into its Personnel Handbook and Personnel Rules and Regulations the following Open Public Meetings Act procedures:

“Discussions by the governing body or any public body concerning appointment, termination, terms and conditions of employment, performance evaluation, promotion or discipline of any current or prospective officer or employee may be held in closed session. Ultimately, the guidance as to notification of employees and the right to have the discussion in executive or the open session should be discussed with and be based upon the guidance and advice of the legal counsel for the public entity and recent court decisions.

BE IT FURTHER RESOLVED, that legal counsel to the Borough and the Borough's personnel officer shall implement and enforce such procedures accordingly.

Resolution #18-112- Introduced by Council President Troast

A Resolution – Authorize-Shared Service Agreement For Maintenance and Repairs of DPW Vehicles.

WHEREAS, the Uniform Shared Services Act N.J.S.A. 40A:65-1 et seq. promotes the broad use of shared services as a method to reduce local expenses funded by property taxpayers; and

WHEREAS, the Uniform Shared Services Act allows for any local unit to enter into an agreement with any other local unit or units to provide or receive any services with each local unit participating in the agreement that is empowered to provide or receive within its own jurisdiction; and

WHEREAS, the Borough of Paramus is willing to provide certain labor and maintenance of DPW vehicles owned by the Borough of Ho-Ho-Kus as needed; and

WHEREAS, the Borough of Ho-Ho-Kus may require the use of such labor and maintenance for its DPW vehicles; and

WHEREAS, the Chief Financial Officer has attached hereto a certification that adequate funds will be provided in the 2019 budget to pay for this agreement;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Ho-Ho-Kus that it does hereby authorize and approve a Shared Services Agreement with the Borough of Paramus for use of certain labor and maintenance for its DPW vehicles in the form of the Shared Services Agreement currently on file with the Municipal Manager's office; and

BE IT FURTHER RESOLVED, that this Shared Services Agreement shall be open to public inspection immediately after passage of this Resolution; and

BE IT FURTHER RESOLVED, that the subject Shared Services Agreement is intended to take effect upon adoption of authorizing resolutions by both the Borough of Paramus and the Borough of Ho-Ho-Kus as well as execution of said Agreement by authorized officials of both entities and shall continue for a period of one (1) year commencing January 1, 2019 to December 31, 2019 unless either party notifies the other in writing of intent to cancel the Agreement; and

BE IT FURTHER RESOLVED, that the Mayor and Municipal Clerk are authorized to sign such Shared Services Agreement following legal review.

A motion was offered by Council President Troast and seconded by Councilman Rorty to approve Resolutions 18-105 through 18-112. Motion carried on a roll call vote – All present voting “Aye”.

LIAISON REPORTS

Recreation – Football teams are all undefeated, wrestling sign-ups have begun.

Board of Education – no report

Ambulance Corp. – no report

Library – no report

Shade Tree – no report

Chamber of Commerce - There were ribbons put around some town trees in recognition of Ovarian Cancer Awareness month. Blood Drive scheduled for November 14th at Borough Hall.

DPW – Leave season is to begin shortly and there is a shredding event on October 6th.

NEW BUSINESS

MAYOR'S REMARKS

CLOSED SESSION: On a motion by Council President Troast, 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:

4-Matters relating to collective bargaining agreements

DPW Negotiations

6- Matters relating to Public Safety and property

Assessment of the Water System

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Now therefore, be it resolved by the Borough Council of the Borough of Ho-Ho-Kus assembled in public session on September 25, 2018 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 7:43 p.m. and ended at 8:15 p.m.

On a motion by Councilman Shell, seconded by Council President Troast, the meeting returned to open public session. Motion Carried by voice vote – all present voting “Aye”.

ADJOURNMENT

On a motion by Council President Troast, seconded by Councilman Iannelli, the meeting was adjourned at 9:01 p.m. Motion Carried by voice vote – all present voting “Aye”.

Respectfully submitted,

Joan Herve RMC/CMR
Borough Clerk