

BOROUGH OF HO-HO-KUS

MAYOR AND COUNCIL PUBLIC MEETING

APRIL 24, 2012- 8:00 P.M.

I OPEN MEETING STATEMENT - ROLL CALL

Mayor Randall opened the meeting at 8:00 PM and asked the clerk to read the opening statement.

Roll Call:

Mayor Randall	Present
Councilmember Troast	Present
Councilmember Lennon	Present
Councilmember Shea	Absent
Councilmember Rorty	Present
Councilmember Weiss	Present
Councilmember Shell	Present

Also present were Borough Administrator Donald G. Cirulli and Borough Attorney David B. Bole

II. PLEDGE OF ALLEGIANCE

Mayor Randall led all in the pledge of Allegiance

III. MAYOR'S STATEMENT- BUDGET

Mayor Randall informed the public that this portion of the Meeting is for the purpose of a Public Hearing and the adoption of the 2012 Municipal, Water, and Solid Waste Budgets.

2012 MUNICIPAL BUDGET PUBLIC HEARING

Mayor Randall opened the Public Hearing and asked the Finance Chairman to summarize the major points of the budget.

A. Budget Posting Resolution

Mayor Randall will invite questions from the public.

B. Approve the Budgets

IV. PRESENTATION- Boy Scouts

V. APPROVAL OF MINUTES

1. May 17, 2011- Work Session

Not eligible- Councilmembers Weiss and Shell

Councilmember Troast approved the Minutes of May 17, 2011, seconded by

Councilmember Lennon

Ayes: Councilmembers Troast, Lennon and Rorty

2. May 17, 2011- Closed Session

Not eligible- Councilmembers Weiss and Shell

Absent- Councilmember Troast

Tabled

3. May 24, 2011 Public Meeting

Not eligible- Councilmembers Weiss and Shell

Absent Councilmember- Lennon

Tabled

VI. ADMINISTRATOR'S REPORT

None

VII. COMMITTEE REPORTS

A. FINANCE

Finance Officer's Report – March 2012

B. PUBLIC SAFETY

1. Police Report – March 2012
2. Court Report – March 2012

C. PUBLIC WORKS & PROPERTIES

1. Supt. of Public Works – March 2012
2. Construction Office Report – March 2012

D. WATER

1. Water Supt. Report – March 2012
2. Water Registrar's Report- March2012

E. FIRE

1. Fire Dept. Report – March 2012
2. Fire Prevention Bureau – March2012

F. COMMUNITY RELATIONS

1. Library – March 2012
2. Ambulance Report – March 2012
3. Solid Waste Utility – March 2012

VIII. PUBLIC DISCUSSION

1. Michael Fabian was by recruited by Ruthanne Frank to head up a project named “Rain Barrel”, conservation of water for all borough homeowners.

2. Steve Sager Chamber of Commerce requested permission to approve Taste of Ho-Ho-Kus event.

3. Donna Cioffi, 1 Powderhorn Road stated her difficulty in getting in touch with the Elected Officials. Her son offered to work on the website but got no response to the request.

4. Carol Tyler, TYCO animal Control officer reported of a Rabid Animal in the borough and asked all residents to keep all pets indoors. The construction of the ambulance Corps almost complete, and the use of the Corps was for meetings and no public access.

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IX. A. CORRESPONDENCE

1. VFW- Memorial Day Parade- May 28, 2012
2. HHK Chamber of Commerce- Permission to hold Town wide Spring Event Councilmember Troast moved the request, seconded by Councilmember Rorty. All Ayes
3. Borough of Waldwick- Office of the Mayor

B. Ordinances and Resolutions Other Towns:

1. Borough of Waldwick and Oakland
 - a. Oppose Bergen County Freeholders Resolution 2702012
2. Township of Wyckoff-
 - a. Limit Monetary Expenses and Health Benefits to Volunteers of NWBCUA
 - b. Oppose Senate Bills S-1451 OPMA and S-1452 OPRA

**C. Bergen County:
Board of Chosen Freeholders:**

1. Resolution # 411-12 Deny Parole to Christopher Righetti
2. Resolution # 420-12 Equality in Safety Standards for Vehicle-Seat
3. NWBCUA- Connection Fees

D. League of Municipalities:

1. Affordable Housing Trust Fund, July deadline
2. League President tells Assembly Budget Committee to Restore Lost Property Tax Relief
3. Energy Tax Funding Gaps, Funding Cuts and State Skim
4. 2012 Annual Legislative Correspondents Club Show
5. Email Lists and the Open Public Records Act

E. State of New Jersey:

None

X. INTRODUCTION OF ORDINANCES

None

XI. FINAL PASSAGE OF ORDINANCES

1. Ordinance # 1008- Index rate

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Mayor and Council of the Borough of Ho-Ho-Kus in the County of Bergen finds it advisable and necessary to increase its CY 2012 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Mayor and Council hereby determines that a 1.5% increase in the budget for said year, amounting to \$ 79,445 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Mayor and Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the Borough of Ho-Ho-Kus, in the County of Bergen, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2012 budget year, the final appropriations of the Borough of Ho-Ho-Kus shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased to 3.5%, amounting to \$ 185,371, and that the CY 2012 municipal budget for the Borough of Ho-Ho-Kus be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote indicated thereon, be filed with said Director within 5 days of adoption.

Councilmember Lennon moved the adoption of the resolution, seconded by Councilmember Rorty

All ayes

Absent. Councilmember Shea

XII. RESOLUTIONS

None

XIII. CONSENT RESOLUTION

1. # 12-46 Oppose Senate Bill 1451 OPMA

WHEREAS, legislation has been introduced to reform and modernize the Open Public Meetings Act (S-1451); and

WHEREAS, the governing body of the Borough of Ho-Ho-Kus agrees with and supports the statement that “the right of the public to be present at all meetings of public bodies, and to witness in full detail all phases of the deliberation, policy formulation, and decision making of public bodies, is vital to the enhancement and proper functioning of the democratic process”; and

WHEREAS, the changes, however, proposed in S-1451 will not only be a cost driver for local and State government but make government less effective; and

WHEREAS, S-1451 includes a number of proposed requirements which involve costly unfunded mandates, impractical requirements and impediments to the democratic process, including the following:

- A new definition of subcommittees that expands subcommittees to be overly inclusive so that, for example, even research projects assigned to one member of a public body could be covered; and
- A new requirement that all subcommittees meetings include notice of their meeting and the preparation of minutes, which would, among other things, necessitate additional administrative support for all meetings of subcommittees as well as increased legal advertising cost; and
- A new requirement that agendas provide a description of all agenda items, including the names of parties to and approximate dollar amounts of any contracts to be acted upon, which will delay the award of contracts and could lead to the loss of grant monies; and
- A new requirement that the governing body may discuss, but not act upon, an item brought up by a citizen at a public meeting if it was not published as an agenda item, that not only runs contrary to the time honored tradition of holding a public meeting for the very purpose of soliciting such input and acting upon it but is impractical, ineffective and unnecessarily inhibits the operations of municipal government; and
- A new requirement for advance notification of estimated start times for the public portion of the meeting and the portion of the meeting from which the public is to be excluded that is unworkable and disruptive; and
- A new requirement that recordings of meetings become a part of the minutes that renders the recordings a permanent municipal record and is not only counter to the already-established records retention schedule of Division of Archive and Records Management for such records but which will be costly to preserve the records to ensure that they are permanent; and
- A new requirement that electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting become part of the minutes and renders the recordings a permanent municipal record, is unworkable and unmanageable as the technology does not always exist to make “hard copies” or digital copies of text messages and the records custodian does not always have access to them, and which is an unprecedented expansion of the meeting concept; and
- A new requirement that public bodies be permitted to exclude the public from discussion of personnel matters only with the written consent of the employee and potentially affected employees which will inhibit the public bodies’ ability to take necessary actions on personnel matters and could lead to costly litigation; and
- A new requirement that comprehensive minutes that must include each member’s stated reason for their actions or vote, the identity of each member of the public who spoke, and summary of what was said, be made available to the public as soon as possible but no later than 45 days after the meeting that will not only be costly but the historical value of minutes will be lost in order to meet an arbitrary deadline; and

WHEREAS, the provisions of S-1451 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-1451 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, while the governing body of the Borough of Ho-Ho-Kus strives for and agrees that open and transparent government is essential to the democratic process, the provisions of S-1451 will make

government inefficient;

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Borough of Ho-Ho-Kus, County of Bergen, and State of New Jersey for reasons stated above, does hereby oppose S-1451, as currently drafted, and strongly urges the State Senate and Assembly to oppose these bills; and

BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, Assemblyman Upendra Chivukula, the legislators of the State Legislative District 40, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

2. # 12-47 Oppose Senate Bill 1452 OPRA

WHEREAS, legislation has been introduced to reform and modernize the Open Public Records Act (S-1452); and

WHEREAS, the governing body of the Borough of Ho-Ho-Kus agrees that government records should be readily accessible and transparent but there must be an appropriate balance between the need for openness and transparency in government and citizens' reasonable expectation of privacy; and

WHEREAS, among the costly unfunded mandates and impractical new requirements of S-1452 are the following:

- The expansion of the definition of government record to include records that are required by law to be made, maintained or kept on file by any public agency that will lead to a records custodians to be in violation of OPRA for the non-existence of a government records created before their tenure with the public body; and
- The creation of a definition for "advisory, consultative or deliberative" material that may be contrary to the well established definition in case law leading to costly litigation; and
- The expanding of the definition of government record to include electronic communications, such as e-mails and text messages, concerning public business among an effective majority of the members that occurred prior to a meeting that is unworkable and unmanageable as the technology does not always exist to make "hard copies" or digital copies of text messages, the records custodian does not always have access to the electronic communications and certain cell phone carriers will not provide this information without a subpoena; and
- The inclusion of a subjective definition for "reasonable" that may be contrary to the well established definition in case law leading to costly litigation; and
- A new requirement that any video or audio recordings or public meetings should be available in unedited form will be in direct violation of the Open Public Meetings Act requirement that requires the redacting of discussions in closed session until the matter can legally be released; and
- A new requirement on how to handle redactions and special services fees is time consuming and costly, especially considering that the Government Records Council has already addressed these procedures in their Custodians' Toolkit, which should be codified; and
- A provision that permits the records custodian to advise a requestor that a government record is readily available on the public agency's website; however, the bill requires the records custodian to directly provide the records to the requestor if they do not have access to a computer but does not define what is meant by "access to a computer"; and
- A new costly requirement that when there is a special service charge the requestor must be provided, at no cost, an index generally describing the responsive government records to be provided and to the greatest extent possible the index shall include the name of each record or brief description of the record or general categories of records, a detailed breakdown of how the special charges were assessed and if records are exempt or redacted, the records custodian must provide a description of those records; and
- A provision that prohibits the assessment of a special service charge for requests for budgets, bills, vouchers, contracts and public employee salaries and overtime unless the request is deemed voluminous, which is undefined and subjective; and

WHEREAS, the provisions of S-1452 place financial, time, manpower and other burdens on municipalities at a time when municipalities are forced to layoff municipal employees, impose furloughs and reduce departmental budgets so that municipalities can meet the strict CAP requirements with decreased revenues and increasing operating expense; and

WHEREAS, the totality of the new requirements of S-1452 will be a significant cost driver for local and State government with no known appropriation contemplated or any alternate means to offset these costs, such a reasonable increase in fees; and

WHEREAS, while the governing body of the Borough of Ho-Ho-Kus strives for and agrees that open and transparent government is essential to the democratic process, the provisions of S-1452 will make government inefficient;

NOW, THEREFORE, BE IT RESOLVED that the governing body of the Borough of Ho-Ho-Kus County (*insert name of county*), and State of New Jersey for reasons stated above, does hereby oppose S-1452, as currently drafted, and strongly urges the State Senate and Assembly to oppose these bills; and

BE IT FURTHER RESOLVED that a copy of this duly adopted resolution be forwarded to Senate President Stephen Sweeney, Senator Loretta Weinberg, Senator Barbara Buono, Senator Shirley Turner, Assembly Speaker Shelia Oliver, Assemblyman Gordon Johnson, the legislators of the State Legislative District 40, Governor Chris Christie, the New Jersey State League of Municipalities and the Municipal Clerks' Association of New Jersey.

3. # 12-48 D & L Paving

WHEREAS, the Mayor and Council of the Borough of Ho-Ho-Kus had previously resolved to permit the Borough of Ramsey to act as the lead agency for Ho-Ho-Kus and the other municipalities of the NW Bergen Shared Services Group to advertise for bids for road resurfacing within each of the municipalities; and

WHEREAS, a total of sixteen bids were accepted by March 22, 2012; and

WHEREAS, the appropriate recommending authority has recommended award of said contract to D & L Paving Contractors, Inc 185 High Street P.O.Box 507 Nutley New Jersey 07110 as the lowest responsible bidder,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus that the contract for road resurfacing within the Borough of Ho-Ho-Kus is hereby awarded to D & L Paving, and that the CFO has certified that funds are available for this project

4. # 12-49 Tonnage Grant

WHEREAS, The Mandatory Source Separation and Recycling Act, P.L.1987, c.102, has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, It is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage

grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, The New Jersey Department of Environmental Protection has promulgated recycling regulations to Implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, The recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and

claimed by the municipality; and

WHEREAS, A resolution authorizing this municipality to apply for the 2011 Recycling Tonnage Grant will memorialize the commitment of this municipality to recycling and to indicate the assent of the Borough of Ho-Ho-Kus Mayor and Council to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, Such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus that the Mayor and Council hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Donald Cirulli Borough Administrator to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

5. # 12-50 Appt. Zoning Officer-Lisa Phillips

WHEREAS, the Borough of Ho-Ho-Kus requires the continuing services of a part-time Zoning Officer (a/k/a

Zoning Official) to work in conjunction with the Construction Department and the Zoning Board of Adjustment; and

WHEREAS, following the resignation of our Zoning Officer in early April 2012, a search has been made for the hiring of a replacement with the knowledge, skills and various certifications necessary to properly perform this duty,

NOW, THEREFORE BE IT RESOLVED by the Mayor & Council of the Borough of Ho-Ho-Kus that Lisa Phillips, PP, AICP, is hired as the part-time Zoning Officer effective immediately.

6. # 12-51 COAH Committee

WHEREAS, it has been established that the NJ State Council on Affordable Housing known as COAH plans to take from all NJ municipalities any unspent Affordable Housing Trust Fund monies being held by the various municipalities if that money remains unspent by July 17, 2012; and

WHEREAS, the Borough of Ho-Ho-Kus currently has an Affordable Housing Trust Fund of \$174,112.33, and, if possible, would prefer to use this money to establish some type of affordable housing within the Borough of Ho-Ho-Kus rather than have this money revert to the state as noted above; and

WHEREAS, it is expedient for the borough to form a committee to investigate this issue on behalf of the Mayor & Council in a timely manner,

NOW, THEREFORE BE IT RESOLVED by the Mayor & Council of the Borough of Ho-Ho-Kus that a special committee known as the COAH Committee is hereby formed immediately with membership as follows: Planning Board Chairman John Hanlon; Borough Clerk and COAH Liaison Laura Borchers; Councilman Phil Rorty; and Borough Attorney David Bole, Esq.; along with ex-officio members Mayor Thomas Randall and Borough Administrator Donald Cirulli.

7. # 12-52 JIF Extended Coverage

WHEREAS, the Borough of Ho-Ho-Kus is a participating member of the Bergen County Municipal Joint Insurance Fund (JIF), relative to general liability and other insurance coverage; and,

WHEREAS, the Joint Insurance Fund has adopted certain criteria to distinguish between bona fide municipal departments, organizations and activities, and other quasi-public entities not sponsored by the municipality and, therefore, not subject to coverage by the JIF; and,

WHEREAS, it has been determined that, in order to receive insurance coverage by the JIF, a department, organization or activity must meet the test that its function is of the type that historically the Borough of Ho-Ho-Kus has provided with coverage and/or which services a bona fide public purpose typically met by the local government, and the benefits of which are available to the municipality in general; and,

WHEREAS, the Borough of Ho-Ho-Kus has requested that the JIF extend coverage to the following entities:

1. Ho-Ho-Kus Police Department
2. Mayor & Council (Governing Body)
3. Worth-Pinkham Public Library and its Trustees
4. Office of Emergency Management
5. Planning Board
6. Zoning Board of Adjustment
7. Board of Health
8. DARE Program and Activities
9. Clean Communities Day and Volunteers
10. Shade Tree Commission
11. Department of Public Works
12. Recycling Center and Activities
13. Ho-Ho-Kus Police Department Junior Academy
14. Ho-Ho-Kus Volunteer Fire Department
15. Ho-Ho-Kus Volunteer Fire Department Ladies Auxiliary
16. Ho-Ho-Kus Volunteer Fire Department Participation in Parades
17. Ho-Ho-Kus Volunteer Fire Department Junior Auxiliary (16 to 21 year-olds)
18. Community Emergency Response Team (CERT)
19. Local Emergency Management Council (LEMC)
20. NW Bergen Mutual Aid Association Field Day Training
21. NW Bergen Mutual Aid Association (exercises and drills)
22. Bergen County Rapid Deployment

23. Ho-Ho-Kus Volunteer Ambulance Corps
24. Youth Activity Council (YAC)
25. Recreation Commission
26. Recreation Coaches/Staffs
27. Ho-Ho-Kus/Saddle River Athletic Association
28. Baseball/Softball Association
29. Basketball Association
30. Ho-Ho-Kus/Saddle River Football
31. Ho-Ho-Kus/Saddle River Cheerleading Association
32. Ho-Ho-Kus/Saddle River Soccer Association
33. Highland Lacrosse Association
34. Northern Highlands Junior Wrestling Program

8. # 12-53 Forgiveness of Solid Waste Bill

Whereas, 40 Deerhill Drive, 1010 West Saddle River Road in Ho-Ho-Kus is empty lots because the residential structures have been eliminated, and

Whereas, all resident structures will be credited for 3 months and then to be reviewed for the balance

Therefore, be it resolved, that the bill in question be cancelled

9. Payment of Vouchers

See Attached

Councilmember Troast moved the consent Resolutions, seconded by Councilmember Lennon, and carried.

XIV.

OLD BUSINESS

- A. Liaison Reports:
 1. Recreation
 2. Board of Education
Meeting set for May 7th, 2012
 3. Other
- B. Grants
- C. Shade Tree
- D. COAH Status

XV.

NEW BUSINESS

XVI.

MAYOR'S REMARKS

Mayor Randall mentioned that Mr. Stewart Deleeuw's name would be added to the Memorial Park Monument.

Police Chief John Wanamaker commended the Waldwick PD for a job well done with the funeral for Joseph D'Augustine, they included the HHKPD in all the logistics. The HHK fire department held the American flag over the over pass on Route 17 in honor of Mr. D'Augustine. He also thanked the HHVAC for volunteering their time all day.

Councilmember Lennon stated that she was approached by a few residents asking about a placement of a toddler area in the Borough.

Councilmember Rorty asked for the date as to when would the completion of the Warren Avenue bridge.

XVII.

CLOSED SESSION

Litigation

XVIII.

ADJOURNMENT

With no further business to come before the Council, and on a motion made by Councilmember Troast, seconded by Councilmember Lennon and carried, Mayor Randall adjourned the meeting at 9:25 PM

Respectfully Submitted,

Laura Borchers, RMC, CMR
Borough Clerk