

**BOROUGH OF HO-HO-KUS**

**MAYOR AND COUNCIL PUBLIC MEETING**

**JUNE 26, 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	Absent
Councilmember Lennon	Present
Councilmember Shea	Present
Councilmember Rorty	Absent
Councilmember Weiss	Present
Councilmember Shell	Present

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

**II. PLEDGE OF ALLEGIANCE**

Justine Engel appointed Mayor for the Day led all in the Pledge of Allegiance

**III. OATH OF OFFICE: Police Officer Brian Dench**

Mayor Randall administered the Oath of Office to newly appointed Police Officer Brian Dench

**IV. APPROVAL OF MINUTES**

1. June 21, 2011 Work Session

Abstain: Councilmembers Weiss and Shell

2. June 21, 2012 Closed session

Abstain: Councilmembers Weiss and Shell

3. June 28, 2011 Public Meeting

Abstain: Councilmembers Weiss and Shell

4. June 28, 2012 Closed Session

Abstain: Councilmembers Weiss and Shell

Councilmember Shea approved the Minutes, seconded by Councilmember Lennon

All Ayes

**V. COMMITTEE REPORTS**

**A. FINANCE**

Finance Officer's Report – May 2012

**B. PUBLIC SAFETY**

1. Police Report – May 2012

2. Court Report – May 2012

**C. PUBLIC WORKS & PROPERTIES**

1. Supt. of Public Works – May 2012

2. Construction Office Report – May 2012

**D. WATER**

1. Water Supt. Report – May 2012

2. Water Registrar's Report- May 2012

**E. FIRE**

1. Fire Dept. Report – May 2012
2. Fire Prevention Bureau – May 2012

**F. COMMUNITY RELATIONS**

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

**VI. PUBLIC DISCUSSION**

Carol Tyler 1 Stoudts Lane, came before Mayor and Council to respond to the editorial in the local paper regarding the Ambulance Corps and the use of the room.

Stanley Kober, 919 Washington Ave stated that he was going to Trenton to pick up the Trailer to be used by OEM and CERT

Ann O'Neill 34 Sutton Drive commented on an editorial in the papers stating that she does not support the use any Borough facility by an organization without a charge.

Jurgen Sachs 409 Warren Ave and Pat Scheffer 413 Warren Ave stated they were very displeased with the fines that were issued with the water restrictions.

Gary Tyler 1 Stoudts Lane commented that the residents should be fined for watering on the days that they are not supposed to water.

Carol Tyler 1 Stoudts Lane questioned Consent Resolution # 12-67

**VII. A. CORRESPONDENCE**

1. The Woman's Club re: Thank you for use of conference room
2. The Ho-Ho-Kus Education Foundation-Thank you for Auction Contribution
3. ECLC- Thank you Graduation Ceremony

**B. Ordinances and Resolutions Other Towns:**

1. Borough of Westwood- Opposition to S96/A2217

**C. Bergen County:**

None

**D. League of Municipalities:**

1. ACR-37, Overturning the DEP Waiver Rule
2. S-1534/A-2586, Equalizes standing of private and public colleges before land use agencies
3. Transportation Funding Conference Committee Headed for Roadblock
4. Affordable Housing Trust Funds Court Denies Administration Stay
5. Clarification Regarding the State's Statutory Obligations for Energy Tax and CMPTRA Funding
6. Amendments to the Open Public Records and Open Public Meetings Act

**E. State of New Jersey:**

None

**VIII. INTRODUCTION OF ORDINANCES**

None

**IX. FINAL PASSAGE OF ORDINANCES**

1. Ordinance # 1009- Volunteer Incentive Program

BE IT ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus, Bergen County, New Jersey that schedule A, attachment 1, to Chapter 80 of the Code is amended to read as follows:

**SCHEDULE A**  
**BOROUGH OF HO-HO-KUS VOLUNTEER INCENTIVE PROGRAM**  
**VOLUNTEER FIRE DEPARTMENT**

To qualify for the Volunteer Incentive Program, a member of the Fire Department must have completed Firefighter I coursework and have been on the department for one (1) year. The firefighter must be in good standing and approved by the Mayor and Council.

**A. POINT SCALE**

(1) To qualify for any points in the program, a firefighter must have made a minimum of 30% of department calls during the calendar year. Once the firefighter has made this minimum, the scale below will apply to call percentage.

Call percentage scale:	30%=30 points
	40%=40 points
	50%=60 points

B. Once a firefighter has met the 30% minimum on call percentage, he is then eligible for points for Clean Ups and Drills based on guidelines listed below:

(i.) Clean ups: a minimum 12 Clean Ups are required to be eligible for this category with maximum benefit of 20 points with each Clean Up equaling 1 point each.

(ii.) Drills: A minimum of 12 Drills are required to be eligible for this category with maximum benefit of 20 points with each Drill equaling 1 point each.

C. Once the minimum of 12 Drills and 12 Clean Ups are met, extras can be utilized to meet the 20 point maximum in both categories.

D. Extras: extras are designated as Classes, Parades, Field Day, Memorial Services, Mutual Aid Meetings, Special Drills, Special Events, Open House or Fire Prevention Demonstrations. To be entitled for credit for extras, they must be documented on a drill sheet.

**PER CENT OF AWARD**

**\$15.00 for each point earned**

Minimum to be eligible.....	35 points
Maximum permitted.....	100 points

**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.

**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.

**Effective Date**

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

**X. RESOLUTIONS**

None

**XI. CONSENT RESOLUTION**

1. # 12-67 Interlocal Vehicle Repairs

**WHEREAS**, the Borough of Ho-Ho-Kus is continually seeking ways to reduce costs while improving efficiency and services to the community; and

**WHEREAS**, it has been found that the costs involved with the repair and maintenance of Ho-Ho-Kus fire apparatus can be greatly reduced through an inter-local agreement with the neighboring Borough of Paramus; and

**WHEREAS**, such an agreement for repairs and maintenance would include: parts, tires, motor oil, hydraulic oil, transmission fluid, anti-freeze, coolant, gear oil, Freon, scheduled repairs and maintenance, and unscheduled repairs,

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Ho-Ho-Kus that such an inter-local agreement is hereby approved.

2. # 12-68 Authorization United Way

**WHEREAS**, the Borough of Ho-Ho-Kus ("Borough") seeks to provide affordable housing opportunities in order to comply with its obligations under the "Mount Laurel Doctrine" and the regulations of the New Jersey Council on Affordable Housing ("COAH"); and

**WHEREAS**, it is in the best interests of the Borough to retain an affordable housing provider duly qualified to assist in the administration of the Boroughs Affordable Housing Program;

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body that it does hereby authorize a contract between the Borough and the United Way of Bergen County/Madeline Corporation, a non-profit corporation of the State of New Jersey; and

**BE IT FURTHER RESOLVED**, that the form of contract annexed hereto is approved subject to legal review; and

**BE IT FURTHER RESOLVED**, that the Mayor and Municipal Clerk are hereby authorized to execute such contract on behalf of the Borough.

3. # 12-69 Committing Housing Trust Funds

**WHEREAS**, as a result of the requirements of P.L.2008,c.46 (N.J.S.A. 52:27D-329.2) the Borough of Ho-Ho-Kus ("Borough") is required to commit for expenditure funds in its affordable housing trust fund within four (4) years from the date of collection; and

**WHEREAS**, according to a Council on Affordable Housing ("COAH") report dated June 5, 2012, the Borough has \$122,763 in pre-July 17, 2008 funds that remain to be expended or committed by July 17, 2012; and

**WHEREAS** the Borough collected more recent trust funds (post July 17, 2008) and has a balance of approximately ONE HUNDRED SIXTY NINE THOUSAND, TWO HUNDRED TWENTY FOUR \$169,224 Dollars in its Affordable Housing Trust Fund as of December 31, 2011; and

**WHEREAS** pursuant to the applicable law, if the Borough does not spend or commit to spend its pre-July 17, 2008 Trust funds, prior to July 17, 2012, the State of New Jersey will require that the Borough transfer the remaining unspent balance to the "New Jersey Affordable Housing Trust Fund" to be used by the State with no apparent affordable housing credit to the Borough; and

**WHEREAS** it is in the best interests of the residents of the Borough for the Governing Body to adopt a resolution, formally committing affordable housing Trust Fund monies to an affordable housing project/program so that the money is not transferred to the New Jersey Affordable Housing Trust Fund, ensuring that the Borough project/programs can continue to provide affordable housing opportunities in the Borough to permit the Borough to address its fair share obligations; and

**WHEREAS** the Borough hereby desires to commit a minimum of ONE HUNDRED SIXTY TWO THOUSAND (\$162,000) Dollars in trust funds by the July 17, 2012 statutory deadline; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the Borough of Ho-Ho-Kus, County of Bergen, State of New Jersey that it does hereby commit its Affordable Housing Trust Funds as follows:

1. ONE HUNDRED AND FIFTY THOUSAND (\$150,000) Dollars to be used for a market to affordable program; and
2. TWELVE THOUSAND (\$12,000) Dollars for administrative expenses;

**BE IT FURTHER RESOLVED**, that the Affordable Housing Planner and Municipal Attorney are hereby authorized and directed to take such steps as may be necessary to obtain approval from COAH with respect to these trust fund commitments; and

**BE IT FURTHER RESOLVED**, that despite the Borough's best efforts at spending and committing to spend its trust funds for eligible affordable housing activities, in the event that the State demands that the Borough forfeit any or all of its affordable housing trust funds, the Borough shall request a hearing before COAH pursuant to the provisions of the Tri-Party Escrow Agreement with Oritani Bank dated January 1, 2012 before any trust funds may be released by the bank from the Borough's Affordable Housing Trust Fund account and;

**BE IT FURTHER RESOLVED** that a certified copy of this Resolution be served upon COAH-Attention Sean Thompson and the Oritani Bank.

4. # 12-70 Authorizing Attorney Settlement

**WHEREAS**, S-82 and A-437 are intended to modify the "time of decision" rule, which currently allows municipalities to change the zoning regulations during the pendency of an application for development; and

**WHEREAS**, the bills would deem as complete the ordinances in effect at the time of an application and shall govern the review of that application, and any decision made following upon that review;

**WHEREAS**, "the time of decision rule" is a judicially recognized principal that decisions are to be made on the basis of laws, ordinances and regulations in effect at the time the decision is rendered not upon application; and

**WHEREAS**, courts have applied the "time of decision rule" to correct errors in zoning ordinances, thus giving local legislators the opportunity to correct legislative policy that had been found to be imperfectly expressed; and

**WHEREAS**, the "time of decision rule" has permitted a municipality to give additional legislative consideration to serious and substantial land use planning concerns that, for whatever reason, had not been previously addressed in the ordinance; and

**WHEREAS**, application and zoning changes require public discussion and hearings, and S-82/A-437 would permit developers to "beat the clock" by filing applications and freezing the ability of local officials to act;

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Ho-Ho-Kus, County of Bergen in the State of New Jersey hereby urges our State Legislators to oppose A-437 and S-82, and any legislation which would eliminate the "time of decision" rule at the local level; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution be forwarded to Senator Gerald Cardinale and Assembly Representatives, Charlotte Vandervalk and Robert Schroeder, the New Jersey State League of Municipalities and the Office of the Governor.

5. # 12-71 Forgiveness of Water Bills

**Whereas**, it was discovered by the Ho-Ho-Kus Water Department that certain water meter readings throughout the Borough, as noted below, were being reported incorrectly for a number of years because of the type of meter that had been installed at these locations; and

**Whereas**, because of these incorrect reports, there were found to be a number of unbilled water charges that, if billed, would be inappropriate;

**Therefore, be it resolved** by the Mayor & Council of the Borough of Ho-Ho-Kus that the following water bills covering the years 2003 through 2011 have, in part, been forgiven: Normandy Court; St. Luke's RC Church; Board of Education at North Field; Dinallo at 17 Deerhill Drive; Cochran at 10 Deerhill Drive; Jensen at 131 Mill Road; Holmes at 15 Saddle Ridge Road; Dowicz at 209 Wearimus Road; Schupak at 9 Deerhill Drive; Cook at 8 Saddle Ridge Road

6. # 12-72 Snow Plowing Program 2012-2013

**BE IT RESOLVED** by the Mayor and Council of the Borough of Ho-Ho-Kus that the Borough of Ho-Ho-Kus enter into a contract with the County of Bergen providing for the plowing of snow on the County roads in the Borough of Ho-Ho-Kus for the winter of 2012-2014 and,

**BE IT FURTHER RESOLVED** that the Mayor and the Borough Clerk are hereby authorized and directed to execute said agreement.

7. # 12-73 Liquor License Renewal 2012-2013

**WHEREAS**, application has been made by certain persons and corporations for the renewal of Plenary Retail Consumption and Plenary Retail Distribution licenses for the year commencing July 1, 2012 and terminating June 30, 2013;

**WHEREAS**, no complaints or objections have been filed with the Borough Clerk against said persons or corporations; and

**WHEREAS**, the Police Department of the Borough of Ho-Ho-Kus has not received any complaints of violations of Alcoholic Beverage Control regulations by any of the applicants hereinafter named; and

**WHEREAS**, the said applicants have filed the necessary forms and have paid the required fees for said licenses;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Ho-Ho-Kus that the following Plenary Retail Distribution licenses be issued:

Garbo's Italian Deli Inc (0228-44-001-005)

J. T. Spirits Inc (0228-44-003-005)

8. Raffles: St Luke's Church

a. # 12-74 On Premise Raffle

**BE IT RESOLVED** by the Mayor and Council of the Borough of Ho-Ho-Kus, Bergen County, New Jersey, that the following On Premise Raffle Application, submitted by St. Luke's Catholic Church, Identification No. 215-1-105 be and the same is hereby approved.

APPLICATION: RA 397

DATES: September 9, 2012

b. # 12-75 Off Premise Raffle

**BE IT RESOLVED** by the Mayor and Council of the Borough of Ho-Ho-Kus, Bergen County, New Jersey, that the following Off Premise Raffle Application, submitted by St. Luke's Catholic Church, Identification No. 215-1-105 be and the same is hereby approved.

APPLICATION: RA 398

DATES: September 9, 2012

9. # 12-76 Resolution Requesting Review and Approval of an Affordable Housing Trust Fund Spending Plan

**WHEREAS**, the Borough Council of the Borough of Ho-Ho-Kus, Bergen County, petitioned the Council on Affordable Housing (COAH) with an adopted third round housing element and fair share plan, dated December 16, 2008, on December 23, 2008; and

**WHEREAS**, the Borough of Ho-Ho-Kus initially received approval from COAH on June 4, 1997 of its development fee ordinance; and

**WHEREAS**, the development fee ordinance established an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds and proceeds from the sale of affordable units; and

**WHEREAS**, *N.J.A.C. 5:97-8.1(d)* requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending funds in its housing trust fund; and

**WHEREAS**, *N.J.A.C. 5:97-8.10* requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to *N.J.A.C. 5:97-8.7, 8.8, and 8.9*;
5. A schedule for the expenditure of all affordable housing trust funds;

6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. A plan to spend the trust fund balance as of July 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council
9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

**WHEREAS**, the Borough of Ho-Ho-Kus has prepared a spending plan amendment consistent with *N.J.A.C.* 5:97-8.10 and P.L. 2008, c.46.

**WHEREAS**, COAH's rules at *N.J.A.C.* 5:97-8.11 "Consideration for Mechanisms not in the Adopted Fair Share Plan" anticipate municipalities funding emergent affordable housing opportunities as follows:

(a) A municipality may request authorization for expenditure of affordable housing trust funds on emergent affordable housing mechanisms not included in the municipal Fair Share Plan, in the form of an amendment to the spending plan

(b) In addition to the requirements for approval of a spending plan or amendment to an approved spending plan set forth at *N.J.A.C.* 5:96-5, the resolution submitted by the municipality shall include a certification that the affordable housing opportunity addresses COAH's criteria set forth in *N.J.A.C.* 5:97-6, and the municipality shall submit information regarding the proposed mechanism in a format to be provided by the Council.

(c) The municipality shall submit an amendment to its Fair Share Plan to include the mechanism at the earlier of two years after the Council's approval of the spending plan amendment or the next planned amendment to the Fair Share Plan resulting from plan evaluation pursuant to *N.J.A.C.* 5:96-10.

(d) The municipality shall submit monitoring pursuant to *N.J.A.C.* 5:96-11 relating to the affordable units created using affordable housing trust funds.

**NOW THEREFORE BE IT RESOLVED** that the Borough Council of the Borough of Ho-Ho-Kus, Bergen County, requests that COAH administratively review and approve Ho-Ho-Kus Borough's spending plan. See attached Borough of Ho-Ho-Kus spending plan; and

**BE IT FURTHER RESOLVED** that the Borough's proposed emergent affordable housing opportunity for a market to affordable program addresses COAH's criteria set forth in *N.J.A.C.* 5:97-6.9. See attached certification from Mary Beth Lonergan, PP, AICP; and

**BE IT FURTHER RESOLVED** that the Borough of Ho-Ho-Kus shall submit an amendment to its Fair Share Plan to include the new affordable housing opportunity for a market to affordable program at the earlier of two years after COAH's administrative approval of the spending plan amendment or the next planned amendment to the Fair Share Plan resulting from plan evaluation pursuant to *N.J.A.C.* 5:96-10;

**BE IT FURTHER RESOLVED** that as the Borough of Ho-Ho-Kus proposes a market to affordable program for moderate-income households pursuant to *N.J.A.C.* 5:97-6.9(c)2, the Borough shall provide an equivalent number of housing units for low-income households through other affordable housing compliance mechanisms in a future third round fair share plan that is required to be prepared and filed pursuant to *N.J.A.C.* 5:97-8.11(c); and

**BE IT FURTHER RESOLVED** that the Borough of Ho-Ho-Kus shall submit monitoring pursuant to *N.J.A.C.* 5:96-11 relating to the affordable units created using affordable housing trust funds.

10. # 12-77 Appointment- Library Board Herman Crowley

**WHEREAS** bids were received for a 2012 Ford F-550 Super Duty 4X4 Dump Truck or equal; and

**WHEREAS** two bids were received; and

**WHEREAS** the apparent low bidder, Charles S. Winner, Inc. d/b/a Winner Ford has requested that its bid be withdrawn since it did not factor a diesel engine into its bid price; and

**WHEREAS** the Governing Body has determined that it is in the Borough's best interests to allow

said bid to be withdrawn; and  
**WHEREAS** the bid of Route 23 Auto Mall, LLC is the lowest responsible, responsive bidder; and  
**WHEREAS** the Chief Financial Officer has attached hereto a certification that adequate funds have been duly appropriated and budgeted to pay for the contract;  
**NOW THEREFORE BE IT RESOLVED** by the Governing Body that it does hereby award a contract to Route 23 Auto Mall, LLC for the vehicle aforesaid in the amount of \$54,627.10; and  
**BE IT FURTHER RESOLVED** that the Mayor and Municipal Clerk are authorized to sign an agreement with the successful bidder following legal review.

11. Payment of Vouchers

See attached

Councilmember Lennon moved the Consent Resolution, seconded by Councilmember Shea, and Carried

**XII. OLD BUSINESS**

**A. Liaison Reports:**

1. Recreation
2. Board of Education
3. Other

**B. Grants**

Received a Grant for the CERT Trailer

**C. Shade Tree**

**D. COAH Status**

**XIII. NEW BUSINESS**

None

**XIV. MAYOR'S REMARKS**

Mayor Randall commented that the taste of Ho-Ho-Kus sponsored by the Chamber of commerce was a huge success, it was a great turnout. The new phone system that was installed for resident to be able to call or leave messages for the Governing Body works, a few calls and messages were already received.

Chief John Wanamaker stated that based on a Stealth study, a 3 way stop sign at Elmwood Avenue that was brought up at a previous meeting does not meet the criteria.

**XV. CLOSED SESSION**

None

**XVI. ADJOURNMENT**

With no further business to come before the Council and on a motion made by Councilmember Shell, seconded Councilmember Lennon, and carried, Mayor Randall adjourned the meeting at 9:15 PM.

Respectfully submitted,

Laura Borchers, RMC/CMR  
Borough Clerk