

MINUTES OF THE MEETING OF THE COUNCIL OF THE BOROUGH OF ESSEX  
FELLS, ESSEX COUNTY, NEW JERSEY

Held at the Essex Fells Municipal Building in said Borough on April 19, 2022 at 7:00 p.m.

Present

Mayor Edward A. Davis (via Conference Call)  
Councilman Michael Cecere  
Councilman BJ D'Avella  
Councilman Greg Hindy  
Councilman John King  
Councilman William Sullivan

Absent

Councilwoman Maggie O'Connor

Also Present

Borough Administrator/Borough Clerk Francine T. Paserchia  
Borough Attorney Robert Oostdyk

Council President King called the meeting to order. He stated that in compliance with the Open Public Meetings Law (Chapter 231, Public Laws of 1975) notice of this meeting was transmitted to The Progress and The Star Ledger and was filed with the Borough Clerk and is posted on the Bulletin Board of the Borough Hall.

Council President King led the Council in the Pledge of Allegiance and gave the Invocation.

Councilman King moved, Councilman Sullivan seconded approval of the minutes of April 5, 2022

And was carried on call of the roll:

Ayes  
Michael Cecere  
BJ D'Avella  
Greg Hindy  
John King  
William Sullivan

Nays  
None

Abstain  
None

Absent  
Maggie O'Connor

Council President King asked the Clerk to report on written communications.

The Clerk reported receipt of the following:

A. Written:

March 2022 Department Reports:

- Construction Department Cash Receipt & Permit Fee Log Report
- Police Department Report
- Thank you - from the Sullivan Family for Karol Sullivan
- Thank you - from Alison Edwards for Essex Fells Police Department

Council President King said if there were no objections to the above, they will be placed on file. Hearing no objection, it was so ordered.

## Committee Discussions

### Public Affairs

- **Current Landscaping and Tree Removal Registration**

The current list was provided to council as per the mayor's request.

*No formal action was taken.*

- **Current Dog License List**

The current list was provided to council for review.

*No formal action was taken.*

### Finance & Personnel

- **2021-2022 Elected Officials Training – Risk Management Seminar**

The Administrator reminded council to please complete the annual training if they have not prior to the deadline of May 1<sup>st</sup>.

*No formal action was taken.*

- **Financial Disclosure Statement Filing**

The Administrator reminded council to please complete their annual Financial Disclosure Statement, The deadline of April 30<sup>th</sup>.

*No formal action was taken.*

***Council President King announced a public hearing on second reading of Ordinance 2022-1054***

The Clerk offered proof of publication of the ordinance, indicating that it was published in The Progress issue of March 31, 2022

***The public hearing was held and BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$865,000 FOR VARIOUS ROAD IMPROVEMENTS FOR AND BY THE BOROUGH OF ESSEX FELLS, IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$865,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.***

BE IT ORDAINED, BY THE BOROUGH COUNCIL OF THE BOROUGH OF ESSEX FELLS, IN THE COUNTY OF ESSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1:

The improvements described in Section 3 of this bond ordinance (the "Improvements") are hereby authorized to be undertaken by the Borough of Essex Fells, New Jersey (the "Borough") as general improvements. For the said Improvements there is hereby appropriated the amount of \$865,000, such sum includes the sum of \$565,000

expected to be received as a grant from the New Jersey Department of Transportation, No down payment is required by the Local Bond Law in connection with the Improvement described in Section 3(a)(1) as the purpose authorized herein involves an Improvement funded by a State grant in the amount of \$565,000 from the Department of Transportation as permitted under N.J.S.A. 40A:2-11c.

SECTION 2:

In order to finance the additional cost of the Improvements not covered by application of the Down Payment and the Grant, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$865,000 pursuant to the provisions of the Local Bond Law (the “Bonds”). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Borough are hereby authorized to be issued in the principal amount not exceeding \$865,000 pursuant to the provisions of the Local Bond Law (the “Bond Anticipation Notes” or “Notes”).

SECTION 3:

The Improvements hereby authorized and the purposes for which obligations are to be issued, the estimated cost of each Improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each Improvement and the period of usefulness of each Improvement are as follows:

<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Average Period of Usefulness</u>
(1) Road improvements to various roads, including but not limited to Devon Road, Oval Road and Hawthorne Road, including excavation and replacement of existing pavement, curbing, sidewalks, and drainage improvements, and including all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.	865,000	865,000	20 years
TOTAL:	\$865,000	\$865,000	20

(a) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$865,000.

(b) The estimated cost of the Improvements is \$865,000 which amount represents the initial appropriation made by the Borough.

SECTION 4:

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the municipal finance officer of the Borough (the “Chief Financial Officer”); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Borough Council of the Borough at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

#### SECTION 5:

The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Borough Clerk and is available for public inspection.

#### SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvements described in Section 3 of this bond ordinance are not current expenses, and are capital improvements or properties that the Borough may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of the Improvements, within the limitations of the Local Bond Law, taking into consideration the respective amounts of all obligations authorized for the several purposes, according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Borough, as defined in the Local Bond Law, is increased by the authorization of the Bonds and Notes provided in this bond ordinance by \$865,000 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$250,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

#### SECTION 7:

Any funds received from time to time by the Borough as contributions in aid of financing the purposes described in Section 3 of this Ordinance shall be used for financing said Improvements by application thereof either to direct payment of the cost of said Improvements or to the payment or reduction of the authorization of the obligations of the Borough authorized therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvements shall, be held and applied by the Borough as funds applicable only to the payment of obligations of the Borough authorized by this Bond Ordinance.

#### SECTION 8:

The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

#### SECTION 9:

The Chief Financial Officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable

for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 10:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Borough reasonably expects to pay expenditures with respect to the Improvements prior to the date that Borough incurs debt obligations under this Bond Ordinance. The Borough reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Borough under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$865,000.

SECTION 11:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

And was carried on call of the roll:

<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>
Michael Cecere	None	Maggie O'Connor
BJ D'Avella		
Greg Hindy	<u>Abstain</u>	
John King	None	
William Sullivan		

*Councilman Hindy moved, Councilman Cecere seconded, approval of the following resolution:*

2022-64

Authorization for Payment of Bills

***BE IT RESOLVED*** by the Council of the Borough of Essex Fells that;

***WHEREAS***, the bill list as attached has been presented by the Chief Finance Officer for payment.

***NOW THEREFORE BE IT RESOLVED*** by the Council of the Borough of Essex Fells that the bill list as presented is approved.

<u>Fund</u>	<u>Fund No.</u>	<u>Amount</u>
Current	01	\$1,464,017.59
Borough Capital	03	\$18,741.00
Water	05	\$215,739.62
Grant	04	\$0
Water Capital	06	\$44,900.00
Animal Control	10	\$18.60
Trust	11	\$9720.75
Payroll	13	\$31,622.41

And was carried on call of the roll:

<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>
Michael Cecere	None	Maggie O'Connor
BJ D'Avella		
Greg Hindy	<u>Abstain</u>	
John King	None	
William Sullivan		

***Councilman Hindy moved, Councilman Sullivan seconded, approval of the following resolution:***

**2022-65**

**RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12**

**WHEREAS**, the Mayor and Council of the Borough of Essex Fells is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.; and

**WHEREAS**, the Open Public Meetings Act, N.J.S.A. 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 Mayor & Council of the Borough of Essex Fells to discuss in a session not open to the public certain matters relating to the item or items authorized by N.J.S.A. 10:4-12b and designated below:

- (1) Matters Required by Law to be Confidential: Any matter which, by express provision of Federal law or State statute or rule of court shall be rendered confidential or excluded from the provisions of the Open Public Meetings Act.
- (2) Matters Where the Release of Information Would Impair the Right to Receive Funds: Any matter in which the release of information would impair a right to receive funds from the Government of the United States.
- (3) Matters Involving Individual Privacy: Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.
- (4) Matters Relating to Collective Bargaining Agreements: Any collective bargaining agreement, or the terms and conditions which are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the public body.
- (5) Matters Relating to the Purchase; Lease or Acquisition of Real Property or the Investment of Public Funds: Any matter involving the purchase, lease or acquisition of real property with public funds, the setting of banking rates or investment of public funds, where it could adversely affect the public interest if discussion of such matters were disclosed.
- (6) Matters Relating to Public Safety and Property: Any tactics and techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection. Any investigations of violations of possible violations of the law.
- X (7) Matters Relating Litigation, Negotiations and the Attorney-Client Privilege: Any pending or anticipated litigation or contract negotiation in which the public body is, or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.
- X (8) Matters Relating to the Employment Relationship: Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all the individual employees or appointees whose right could be adversely affected request in writing that such matter or matters be discussed at a public meeting.
- (9) Matters Relating to the Potential Imposition of a Penalty: Any deliberations of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party bears responsibility.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Essex Fells, in the County of Essex and State of New Jersey, assembled in public session on April 19, 2022 at 7:15

P.M. in the Essex Fells Municipal Building, 255 Roseland Avenue, Essex Fells, New Jersey, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Borough Council that the public interest will no longer be served by such confidentiality.

And was carried on call of the roll:

<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>
Michael Cecere	None	Maggie O'Connor
BJ D'Avella		
Greg Hindy	<u>Abstain</u>	
John King	None	
William Sullivan		

On motion made by Councilman Hindy, seconded by Councilman Sullivan and approved unanimously by the Council, the meeting adjourned at 8:25 p.m.

Respectfully submitted,

Francine T. Paserchia  
*Municipal Clerk*