

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 December 20, 2022 at 7:00 p.m.

Present

Mayor Edward A. Davis
Councilman BJ D'Avella
Councilman Greg Hindy
Councilman John King
Councilman William Sullivan

Absent

Councilman Michael Cecere
Councilwoman Maggie O'Connor

Also Present

Borough Administrator /Borough Clerk Francine T. Paserchia
Borough Attorney James Parisi

Mayor Davis 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.

Mayor Davis led the Council in the Pledge of Allegiance and gave the Invocation.

Councilman King moved, Councilman Sullivan seconded approval of the minutes of November 22, 2022 and December 6, 2022

And was carried on call of the roll:

Ayes

BJ D'Avella
Greg Hindy
John King
William Sullivan

Nays

None

Abstain

None

Absent

Michael Cecere
Maggie O'Connor

Mayor Davis asked the Clerk to report on written communications.

The Clerk reported receipt of the following:

A. Written:

November 2022 Department Reports:

- Construction Department Cash Receipt & Permit Fee Log Report
- Police Department and Municipal Court Report
- Best Practices Inventory
- Financial Disclosure Statement Enforcement – NJ DCA

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

The Clerk offered proof of publication of the ordinance, indicating that it was published in The Star Ledger issue of December 11, 2022

***The public hearing was held and* BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$600,000 FOR VARIOUS ROAD IMPROVEMENTS FOR AND BY THE BOROUGH OF ESSEX FELLS, IN THE COUNTY OF ESSEX, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$570,000 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. Said Improvements were initially funded by an emergency appropriation by the Borough. For the said Improvements there is hereby appropriated the amount of \$600,000, such sum includes the sum of \$30,000 as the down payment (the “Down Payment”) required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the “Local Bond Law”). The Down Payment is now available by virtue of provision in one or more previously adopted budgets for down payments for capital purposes.

SECTION 2:

In order to finance the cost of the Improvements not covered by application of the Down Payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$570,000 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 \$570,000 pursuant to the provisions of the Local Bond Law (the “Bond Anticipation Notes” or “Notes”).

SECTION 3:

(a) The Improvements 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.	\$600,000	\$570,000	20 years
TOTAL:	\$600,000	\$570,000	20

(b) 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 \$570,000.

(c) The estimated cost of the Improvements is \$600,000 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 Chief Financial 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 \$570,000 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$180,000 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 \$570,000.

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

Public Comment

- **Alan Feierstein, 56 Fellswood Drive**
Re: 2021 NJDOT Municipal Road Aid Program – Fellscrest Road & Fellswood Drive
Petition Submitted (attached)

Councilman King moved, Councilman Sullivan seconded, approval of the following resolutions on consent:

2022-145

**RESOLUTION AUTHORIZING TRANSFER OF BUDGET APPROPRIATIONS
PURSUANT TO N.J.S.A 40A:4-58**

WHEREAS, in accordance with N.J.S.A 40A:4-58, transfers may be made between appropriation accounts in the General Budget in the last two months of the fiscal year; and

WHEREAS, such transfers are made to cover expenses in accounts in excess of that anticipated and from accounts having expenses in less amounts than anticipated;

<u>ACCOUNT</u>	<u>TRANSFER IN</u>	<u>TRANSFER OUT</u>
ADMINISTRATION S&W	\$ 1,000.00	
SOCIAL SECURITY	\$ 2,500.00	
RECREATION O/E		\$ 3,500.00
TOTAL	\$ 3,500.00	\$ 3,500.00

NOW THEREFORE BE IT RESOLVED by the Council of the Borough of Essex Fells, County of Essex, New Jersey, in accordance with N.J.S.A 40A:4-58 that transfers between budget appropriation accounts as listed above are authorized and that certified copy of this resolution adopted by not less than a two-thirds (2/3) vote of the full membership of the governing body shall be transmitted to the Chief Financial Officer.

2022-146

REFUND OF TAX OVERPAYMENT DUE TO TAX COURT JUDGEMENT

WHEREAS, the State of New Jersey Tax Court have rendered judgments on appeals made by tax payers regarding the property assessment, and,

WHEREAS, the following property had their assessment reduced by the State of New Jersey Tax Court,

WHEREAS, said judgement resulted in an overpayment of taxes to be refunded to the property owner,

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Essex Fells, County of Essex that the Tax Collector be authorized to refund the following:

<u>Year</u>	<u>Block</u>	<u>Lot</u>	<u>Recipient</u>	<u>Amount</u>
2021	2.05	9	MIKULSKI, STANISLAW M + WANDA J 47 Avon Drive Essex Fells NJ, 07021	\$20.46

2022-147

REFUND OF TAX OVERPAYMENT DUE TO TAX COURT JUDGEMENT

WHEREAS, the State of New Jersey Tax Court have rendered judgments on appeals made by tax payers regarding the property assessment, and,

WHEREAS, the following property had their assessment reduced by the State of New Jersey Tax Court,

WHEREAS, said judgement resulted in an overpayment of taxes to be refunded to the property owner,

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Essex Fells, County of Essex that the Tax Collector be authorized to refund the following:

<u>Year</u>	<u>Block</u>	<u>Lot</u>	<u>Recipient</u>	<u>Amount</u>
2020	8	4	GOLDSTEIN, NEIL & JOYCE 131 Rensselaer Road Essex Fells NJ, 07021	\$8,166

RESOLUTION AUTHORIZING THE SUBMISSION OF A LOCAL AID INFRASTRUCTURE GRANT APPLICATION AND EXECUTION OF A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION

BE IT RESOLVED by the Borough Council of the Borough of Essex Fells, in the County of Essex and State of New Jersey, that Borough formally approves the grant application for the above-stated project; and

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as LAIF-2023 Fells Road – Essex Fells – 00031 to the New Jersey Department of Transportation on behalf of the Borough of Essex Fells; and

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Essex Fells and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE BOROUGH OF ESSEX FELLS AND PETRY ENGINEERING, LLC FOR THE 2021 ROAD IMPROVEMENT PROGRAM

WHEREAS, there is a need to amend the agreement for professional engineering services in connection with the 2021 Borough Road Improvement Program as a result of issue with the project and claims by the contractor; and

WHEREAS, the maximum amount of the contract for design and inspection under the original professional services agreement was \$54,400.00; and

WHEREAS, The Borough has received a supplemental proposal dated December 20, 2022 and it has been determined that it is in the best interest of the Borough to accept the supplemental proposal submitted by Borough Engineers Petry Engineering, LLC for an additional \$25,000.

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the resolution authorizing the award of contracts for "Professional Services" without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, the Chief Financial Officer has certified the availability of funds
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, as follows:

Section 1. The Mayor and Clerk are hereby authorized and directed to execute an agreement with Petry Engineering, LLC for supplemental engineering and inspection services for the Borough of Essex Fells for the 2021 Road Improvement Program for a total amount not to exceed an additional \$25,000.00 to supplement the original contract of \$54,400.00 as set forth in the supplemental proposal dated December 20, 2022.

Section 2. This contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the contract is for a service performed by a person(s) authorized by law to practice a recognized profession that is regulated by law.

2022-150

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	2-01	\$969,943.20
Borough Capital	C-04	\$35,909.17
Water	2-05	\$63,452.83
Grant	04	\$0
Water Capital	C-06	\$36,463.12
Animal Control	T-10	\$0
Trust	T-11	\$343.16
Payroll	T-13	\$126,873.81

And was carried on call of the roll:

Ayes
BJ D'Avella
Greg Hindy
John King
William Sullivan

Nays
None
Abstain
None

Absent
Michael Cecere
Maggie O'Connor

**On motion made by Councilman Hindy, seconded by Councilman D'Avella
and approved unanimously by the Council, the meeting adjourned at 7:42 p.m.**

Respectfully submitted,

**Francine T. Paserchia
*Municipal Clerk***