

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 January 17, 2023 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.

Appointments:

*Councilman Hindy moved, Councilman Sullivan seconded, approval of the following Appointment to the NJ State Firemen's Association:*

- Appointment to the New Jersey State Firemen's Association – Application for Membership for Ming C. Shih, 82 Oldchester Road, Essex Fells

*Mayor Davis announced introduction on first reading of Ordinance 2023-1071*

Councilman King moved, Councilman Hindy seconded a motion to introduce on first reading and publish according to law an ordinance entitled 2023-1071, **ORDINANCE AMENDING CHAPTER 72 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ESSEX FELLS AND PROVIDING FOR A LIQUOR LICENSE FEE**, hearing to be held on February 7, 2023 at 7:00 p.m.

**BE IT ORDAINED** by the Borough Council of the Borough of Essex Fells, in the County of Essex and State of New Jersey, as follows:

**Section 1.** Chapter 72 of the Revised General Ordinances of the Borough of Essex Fells, Section 72-2 entitled "Fees," shall be amended to read in its entirety as follows:

**72-2. Fees.**

Effective January 1, 2023, the sum to be paid annually for a plenary retail consumption license is \$3,685.39 in accordance with N.J.S.A. 33:1-12. All fees collected pursuant to this section are nonrefundable.

**Section 2.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 3.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

**And was carried on call of the roll:**

<u><b>Ayes</b></u> BJ D’Avella Greg Hindy John King William Sullivan	<u><b>Nays</b></u> None  <u><b>Abstain</b></u> None	<u><b>Absent</b></u> Michael Cecere Maggie O’Connor
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*Mayor Davis announced introduction on first reading of Ordinance 2023-1072*

**Councilman Hindy moved, Councilman King seconded a motion to introduce on first reading and publish according to law an ordinance entitled 2023-1072, AN ORDINANCE FIXING THE SALARIES, COMPENSATION, RETAINERS AND ALLOWANCES FOR THE BOROUGH OF ESSEX FELLS, hearing to be held on February 7, 2023 at 7:00 p.m.**

**BE IT ORDAINED by the Council of the Borough of Essex Fells, in the County of Essex and State of New Jersey, as follows:**

**Section 1.** The base salaries, compensation, retainers and allowances of certain paid officers, employees and fire department volunteers of the Borough shall be at the following rates effective as of January 1, 2023, until subsequently amended, are hereby established as follows:

	MINIMUM	MAXIMUM
<b>ADMINISTRATION &amp; EXECUTIVE</b>		
Borough Administrator	\$ 20,000.00	\$ 40,000.00
Borough Clerk	\$ 55,000.00	\$ 130,000.00
Administrative Assistant	\$ 25,000.00	\$ 60,000.00
Administrative Assistant Part-time	10.00	30.00
<b>FINANCE</b>		
Chief Finance Officer	\$ 5,000.00	\$ 80,000.00
<b>TAX COLLECTION</b>		
Tax Collector	\$ 25,000.00	\$ 80,000.00

<b>TAX ASSESSOR</b>	\$ 10,000	\$ 18,000.00
Tax Assessor		
<b>FIRE DEPARTMENT STIPENDS</b>		
All Members Receive		\$ 150.00
Additional:		
Fire Chief		\$ 400.00
Deputy Chief		\$ 225.00
Battalion Chief		\$ 150.00
Drivers		\$ 75.00
<b>POLICE DEPARTMENT</b>		
Police Chief	\$ 80,000.00	\$ 190,000.00
Police Captain	\$ 80,000.00	\$ 180,000.00
Crossing Guards (hourly)	\$ 10.00	\$ 25.00
Class III Officer	\$ 40,000.00	\$ 70,000.00
<b>CONSTRUCTION CODE OFFICIAL</b>		
Construction Official	\$ 15,000.00	\$ 35,000.00
Fire Protection Subcode Official (hourly)	\$ 25.00	\$ 35.00
Property Maintenance Worker	\$ 25.00	\$ 35.00
<b>PUBLIC WORKS</b>		
Public Works Superintendent	\$ 60,000.00	\$ 100,000.00
Deputy Public Works Superintendent	\$ 60,000.00	\$ 90,000.00
Part-time Seasonal Employee	\$ 10.00	\$ 18.00
<b>RECREATION</b>		
Recreation Director	\$ 8,000.00	\$ 32,000.00
Part-time/Seasonal Employees (hourly):		
Camp Counselors	\$ 5.00	\$ 15.00
Teachers	\$ 10.00	\$ 30.00
Site Manager	\$ 20.00	\$ 30.00
Umpires/Referees/Timers	\$ 10.00	\$ 100.00

**Section 2. Longevity**

Said salaries of non-uniformed full-time employees, hired before December 31, 1992, longevity pay shall be added at the following rates:

Less than 5 years	None
5 through 10 years	2% of base salary
11 through 15 years	4% of base salary
16 through 20 years	6% of base salary
21 through 24 years	8% of base salary
More than 24 years	10% of base salary

Said salaries uniformed members of the Police Department shall be as follows:

Period of continuous, uninterrupted service:

Less than 5 years	None
5 through 10 years	2% of base salary
11 through 15 years	4% of base salary
16 through 20 years	6% of base salary
21 through 24 years	8% of base salary
More than 24 years	11% of base salary

Said longevity pay shall take effect as of the employment anniversary date of the individual.

**Section 3.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**Section 4.** This ordinance shall take effect in the manner provided by law.

**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 announced a public hearing on second reading of Ordinance 2022-1070*

**The Clerk offered proof of publication of the ordinance, indicating that it was published in The Progress issue of January 12, 2022**

*The public hearing was held and* **AN ORDINANCE AMENDING CHAPTER 205 THE CODE OF THE BOROUGH OF ESSEX FELLS TO COMPLY WITH STATUTORY REQUIREMENTS FOR VACANT AND FORECLOSURE PROPERTY REGISTRATION ORDINANCES.**

**WHEREAS**, P.L. 2021, Chapter 444, approved January 18, 2022, (the "Act") required that existing municipal ordinances that address vacant property registration programs be amended to make them consistent with the Act; and

**WHEREAS**, Essex Fells has an existing ordinance which must be amended to conform with this newly adopted State law.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Essex Fells, in the County of Essex and State of New Jersey, as follows:

**Section 1.** Chapter 205, "Property, Abandoned" of the Revised General Ordinances of the Borough of Essex Fells shall be amended by the addition of the following new subsection c. to the definition of "Abandoned Property" set forth in Section 205-1, "Definitions" which shall read, in its entirety, as follows:

c. A residential property shall not be considered "vacant and abandoned" if there is an unoccupied building which is undergoing construction, renovation, or rehabilitation and the building is in compliance with all applicable ordinances, codes, regulations, and statutes; if there is a building occupied on a seasonal basis, but otherwise secure; or if there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

**Section 2.** Chapter 205, "Property, Abandoned" of the Revised General Ordinances of the Borough of Essex Fells, Article II "Buildings Pending Foreclosure", Sections 205-9 through 205-15 shall be amended to read, in their entirety, as follows:

**Article II**  
**Buildings Pending Foreclosure**

**205-9 Buildings and Properties Pending Foreclosure; Purpose**

The purpose of Sections 205-9 through 205-15 is to:

- (1) create a property registration program for the purposes of identifying and monitoring properties within the Borough for which a summons and complaint in an action to foreclose on a mortgage has been filed;
- (2) regulate the care, maintenance, security, and upkeep of the exterior of vacant and abandoned properties for which a summons and complaint in an action to foreclose has been filed; and
- (3) impose property registration fees on the creditor of properties on an annual basis.

**205-10 Creditor Registration**

- (1) As used in this section:

“Creditor” means a mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclose upon the residential or commercial mortgage changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the creditor for purposes of this section. For purposes of this section, a creditor shall not include the State, a political subdivision of the State, a State, county, or local government entity, or their agent or assignee, such as the servicer.

- (2) A creditor filing a summons and complaint in an action to foreclose shall, in addition to the notice provided to the Borough pursuant to section 17 of P.L.2008, c. 127 (C.46:10B-51) or section 2 of P.L.2021, c. 444 (C.40:48-2.12s2), register the residential or commercial property with the Borough's property registration program as a property in foreclosure and, as part of that registration: (a) provide the Borough with the information regarding the creditor required by paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51) or paragraph (1) of subsection a. of section 2 of P.L.2021, c. 444 (C.40:48-2.12s2); (b) identify the date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing; and (c) identify whether the property is vacant and abandoned;
- (3) If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a creditor following the filing of the summons and complaint, the creditor shall update the property registration program within 10 days of the change in that information;
- (4) A creditor filing a summons and complaint in an action to foreclose shall, if the registered property becomes vacant and abandoned after the property is initially registered with the Borough, update the property registration with the Borough to reflect the change in the property's status.
- (5) a creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor;

**205-11 Creditor Responsibility**

- (1) A creditor filing a summons and complaint in an action to foreclose shall be responsible for the care, maintenance, security, and upkeep of the

exterior of the property if the property is vacant and abandoned at any time while the property is registered with the property registration program.

- (2) The care, maintenance, security, and upkeep of the exterior of the property includes, but is not limited to, securing the property against unauthorized entry, posting a sign affixed to the inside of the property and visible to the public indicating the name, address, and telephone number of the creditor or an out-of-State creditor's in-State representative or agent for the purpose of receiving service of process, acquiring and otherwise maintaining liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property while registered with the property registration program.

### **205-12 Definition of “Vacant and Abandoned”**

a property shall be considered vacant and abandoned if it is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:

- (a) overgrown or neglected vegetation;
- (b) the accumulation of newspapers, circulars, flyers, or mail on the property;
- (c) disconnected gas, electric, or water utility services to the property;
- (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (e) the accumulation of junk, litter, trash, or debris on the property;
- (f) the absence of window treatments such as blinds, curtains, or shutters;
- (g) the absence of furnishings and personal items;
- (h) statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- (i) windows or entrances to the property that are boarded up or closed off, or multiple windowpanes that are damaged, broken, and unrepaired;
- (j) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (k) a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (l) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (m) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (n) a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (o) any other reasonable indicia of abandonment.

### **205-13 Enforcement**

The Borough Administrator may designate an officer or employee with the responsibility to issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the public officer or other authorized municipal official determines that the creditor has violated the ordinance. In the case of a violation for failure to provide care, maintenance, security, and upkeep of the exterior of vacant and abandoned property, such notice shall require the person or entity to correct the violation within 30 days of receipt of the notice, or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety.

### **205-14 Fees**

The annual fee for a creditor required to register a property pursuant to this ordinance shall be:

- (1) \$500 per property annually for any property that is required to be registered because a summons and complaint in an action to foreclose was filed by the creditor; and
- (2) an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in the ordinance when the summons and complaint in an action to foreclose is filed or becomes vacant and abandoned at any time thereafter while the property is in foreclosure.

**205-15 Violations**

- (1) An out-of-State creditor found by the municipal court or by any other court of
- (2) competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to the ordinance shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period set forth in paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51) or paragraph (1) of subsection a. of section 2 of P.L.2021, c. 444 (C.40:48-2.12s2) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
- (2) A creditor found by the municipal court, or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (1) of this subsection, shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice of violation, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.
- (3) No less than 20 percent of any money collected pursuant to this section shall be utilized by the Borough for municipal code enforcement purposes.

**Section 2.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 3.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

**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:**

**December 2022 Department Reports:**

- Construction Department Cash Receipt & Permit Fee Log Report
- Police Department and Municipal Court Report
- 2022 Tax Appeal Settlement, Block 3, Lot 4

**B. Oral:**

**Roger Kerr, Superintendent Department of Public Works**

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

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

**2023-34**

**WHEREAS**, the Borough of Essex Fells has a need to obtain Water Operation Services and has determined to award this contract as a Professional Service without obtaining competitive bids or quotes as a non-fair and open contract pursuant to the provisions of *N.J.S.A. 19:44A-20.5*; and

**WHEREAS**, the Chief Financial Officer has determined and will certify in writing that the value of the acquisition will exceed \$17,500; and,

**WHEREAS**, the anticipated term of this contract is *one year*; and

**WHEREAS**, *DeBlock Environmental Services, LLC* has submitted a proposal indicating he will provide the legal services for the annual fee of \$48,000.00 per year; and

**WHEREAS**, *DeBlock Environmental Services, LLC* has completed and submitted a Business Entity Disclosure Certification which certifies that *DeBlock Environmental Services, LLC* has not made any reportable contributions to a political or candidate committee in the *Borough of Essex Fells* in the previous one year, and that the contract will prohibit *DeBlock Environmental Services, LLC* from making any reportable contributions through the term of the contract, and

**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 in writing to the Governing Body that there are adequate funds in the amount of \$48,000.00, in the local budget to complete this contract.

**NOW THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Borough of Essex Fells, in the County of Essex and State of New Jersey, authorizes the entry of a contract with *DeBlock Environmental Services, LLC* as described herein; and

**BE IT FURTHER RESOLVED** that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.

**RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE BOROUGH OF ESSEX FELLS AND PETRY ENGINEERING, LLC (2023 ROAD IMPROVEMENT PROGRAM)**

**WHEREAS**, there exists the need for professional engineering services in connection with the 2023 Borough Road Improvement Program; and

**WHEREAS**, the maximum amount of the contract for design and inspection is \$45,810.00 for design and up to \$18,000.00 for inspection/construction observation; and

**WHEREAS**, The Borough has received a proposal dated December 12, 2022, and determined that it is in the best interest of the Borough to accept the proposal submitted by Borough Engineers Petry Engineering, LLC.

**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 engineering and inspection services for the Borough of Essex Fells for the 2023 Road Improvement Program for a total amount not to exceed \$45,810.00 for design and up to \$18,000 for inspection/construction observation as set forth in a proposal dated December 12, 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.

*BE IT RESOLVED by the Council of the Borough of Essex Fells that the Mayor and Borough Clerk are hereby authorized to execute on behalf of the Borough of Essex Fells an agreement to provide a dental insurance program from March 1, 2023 to February 28, 2024 for all eligible full-time Borough Employees.*

2023-37

WHEREAS, the Tax Collector has received funds from a property owner(s) or other party of interest for redemption of a Tax Sale Lien(s), and

WHEREAS, lien holders are entitled to payment for redemption of the Tax Lien(s) upon receipt of funds by the Tax Collector, and

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 that the Tax Collector is hereby authorized to redeem said lien(s) and return applicable premiums in the following amount(s):

Certificate 21-00002

Block 8.03– Lot 5

Owner: Faloni, James J & Cindy L  
Address: 42 Stewart Road  
TOTAL TO REDEEM CERTIFICATE: \$9,934.84  
REFUND OF PREMIUM: \$51,000

Check to be issued to: Christiana T C/F CE1/FIRST TRUST  
Mailing Address: PO Box 5021  
Philadelphia, PA 19111-5021

2023-38

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	\$35,999.85
Current	3-01	\$869,945.54
Borough Capital	C-04	\$69,785.21
Water	2-05	\$34,163.27
Water	3-05	\$26,261.80
Grant	04	\$0
Water Capital	C-06	\$65,672.38
Animal Control	T-10	\$0
Trust	T-11	\$14,709.55
Payroll	T-13	\$94,691.11

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 Sullivan seconded by Councilman Hindy  
and approved unanimously by the Council, the meeting adjourned at 7:18 p.m.**

**Respectfully submitted,**

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