

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 May 7, 2024 at 7:00 p.m.

Present

Mayor Edward A. Davis  
Councilman Michael Cecere  
Councilman BJ D'Avella  
Councilman John King  
Councilwoman Maggie O'Connor  
Councilman William Sullivan

Absent

Councilman Greg Hindy

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.

Committee Discussions

Recreation

- **Championship Presentation – 7<sup>th</sup> and 8<sup>th</sup> Grade Boys Basketball Team**

Lauren Mousab, Recreation Director presented the team to the Mayor and Council. She also gave an update on summer camp and recreation programs.

*All were in Agreement.*

Water

- **NJDEP review and Water Bank Financing of Additional PFOA Treatment Facilities**

The Mayor gave a status update to the council, with *no formal action being taken.*

- **Runnymede Road – Replacement of Water Supply Main**

The Mayor updated the council on the project, with *no formal action being taken.*

- **Redevelopment of Wells 15 and 16**

The Mayor and Councilman D'Avella gave a brief update on the status of the Redevelopment of Wells 15 and 16.

*No formal action taken.*

## Public Affairs

- **Annual Memorial Day Parade**

**The Mayor and the Administrator reminded the council of the date, time and place for the parade and the Annual Ceremony in front of borough hall.**

*No formal action taken.*

- **Garden Club's Annual Plant Sale**

**The Mayor also reminded council of the Graden Club's Annual Plant Sale.**

*No formal action taken.*

*Mayor Davis announced introduction on first reading of Ordinance 2024-1096*

**Councilman D'Avella moved, Councilwoman O'Connor seconded a motion to introduce on first reading and publish according to law an ordinance entitled 2024-1096, AN ORDINANCE OF THE BOROUGH OF ESSEX FELLS AMENDING THE BOROUGH CODE TO ESTABLISH NJDEP-MANDATED REGULATIONS FOR PRIVATELY OWNED SALT STORAGE, hearing to be held on June 18, 2024 at 7:00 p.m.**

**WHEREAS**, as part of MS4 Tier A permit stormwater requirements, the New Jersey Department of Environmental Protection (NJDEP) requires municipalities to adopt NJDEP- mandated regulations for privately owned salt storage; and

**WHEREAS**, the Borough Council is required to adopt the NJDEP model ordinance.

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

**SECTION 1.** The Revised General Ordinances of the Borough of Essex Fells are hereby amended by the inclusion of new Chapter 202 entitled "Privately Owned Salt Storage," which shall read in its entirety as follows:

### **CHAPTER 202**

#### **PRIVATELY OWNED SALT STORAGE**

##### **§ 202-1. Purpose.**

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in Borough of Essex Fells to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

## **§ 202-2. Definitions.**

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Article clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- A. “De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.
- B. “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.
- C. “Storm drain inlet” means the point of entry into the storm sewer system.
- D. “Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

- (1) Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
  - (2) The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
  - (3) The structure shall be erected on an impermeable slab;
  - (4) The structure cannot be open sided; and
  - (5) The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.
- E. “Person” means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
  - F. “Resident” means a person who resides on a residential property where de-icing material is stored.

## **§ 202-3. Deicing Material Storage Requirements.**

- A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th:
  - (1) Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
  - (2) Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;
  - (3) Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;
  - (4) Loose materials shall be covered as follows:
    - (a) The cover shall be waterproof, impermeable, and flexible;
    - (b) The cover shall extend to the base of the pile(s);
    - (c) The cover shall be free from holes or tears;

- (d) The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and
- (e) Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.

[1] Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;

(5) Containers must be sealed when not in use; and

(6) The site shall be free of all de-icing materials between April 16th and October 14th.

B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 - April 15.

C. All such temporary and/or permanent structures must also comply with all other Borough of Essex Fells ordinances, including building and zoning regulations.

D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.

(1) Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

#### **§ 202-4. Exemptions.**

Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in § 202-3 above. Piles of de-icing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

#### **§ 202-5. Enforcement.**

This ordinance shall be enforced by the Essex Fells Police Department and/or another person designated by the Borough Administrator during the course of ordinary enforcement duties.

#### **§ 202-6. Violations and Penalties.**

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action shall subject such person(s) to fines and penalties in accordance with N.J.S.A. 40:49-5.

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

*Mayor Davis announced a public hearing on second reading of Ordinance 2024-1093*

The Clerk offered proof of publication of the ordinance, indicating that it was published in The Progress issue of April 18, 2024

*The public hearing was held and AN ORDINANCE TO AMEND FEES IN ARTICLE 1, RECREATION FEES, CHAPTER 125, RATES AND FEES, OF THE REVISED ORDINANCES OF THE BOROUGH OF ESSEX FELLS*

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

*ATICTLE 1, CHAPTER 125, SECTION 1*, Rates and fees, the following fees are hereby amended:

**Spring Registration**

All Sports – Grades 3 to 8 \$165.00 per child

All Fees Collected pursuant to this Ordinance are **Non-Refundable**.

The Ordinances of the Council, when duly and properly adopted, shall become and be part of this ordinance by reference, to the same effect and with the same force as if set forth here in full and at length.

**Section 2.** All other ordinances or parts of ordinances inconsistent with the provisions of this ordinance, are hereby repealed.

**Section 3.** This ordinance shall take effect after final passage and publication according to law.

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

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

*Mayor Davis announced a public hearing on second reading of Ordinance 2024-1094*

The Clerk offered proof of publication of the ordinance, indicating that it was published in The Progress issue of April 25, 2024

*The public hearing was held and* **ORDINANCE AMENDING CHAPTER 286 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ESSEX FELS AND ESTABLISHING A RATE FOR WATER CONSUMPTION**

**BE IT ORDAINED** 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.** Chapter 286, Section 286-34, of the Revised General Ordinances of the Borough of Essex Fells entitled “Per-gallon rate,” shall be amended to read in its entirety as follows:

**286-34. Per-gallon rate.**

- A. The rate for water consumption shall be seven dollars and no cents (\$7.00) for each thousand gallons of water consumed. This rate shall be effective beginning July 1, 2024.
- B. The rate for contractual wholesale customers shall be calculated on an annual basis pursuant to the terms of the applicable contract.

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

*Mayor Davis announced a public hearing on second reading of Ordinance 2024-1095*

The Clerk offered proof of publication of the ordinance, indicating that it was published in The Progress issue of April 25, 2024

*The public hearing was held and* **ORDINANCE AMENDING CHAPTER 286 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ESSEX**

**FELLS AND ESTABLISHING A MINIMUM CHARGE.**

**BE IT ORDAINED** 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.** Chapter 286, Section 286-35, of the Revised General Ordinances of the Borough of Essex Fells entitled "Minimum Charge," shall be amended to read in its entirety as follows:

**286-35. Minimum Charge.**

The minimum rate charged for water for any purpose shall be \$50.00

**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>Ayes</u> Michael Cecere BJ D'Avella John King Maggie O'Connor William Sullivan	<u>Nays</u> None  <u>Abstain</u> None	<u>Absent</u> Greg Hindy
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*Councilman Sullivan moved, Councilwoman O'Connor seconded, approval of the following resolutions on consent:*

**2024-74**

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

**WHEREAS**, various street signs are being replaced throughout the Borough in order to be in compliance with State and Federal Standards; and

**WHEREAS**, the signs are being auctioned off in an effort to offset the cost to the borough; and

NAME	ADDRESS	STREET SIGN	BID
Peter Norton	36 Park Lane	Park Lane - Brown	\$20.00
Kelly Makovsky	75 Holton Lane	Roseland Avenue - Brown	\$50.00
Jeffery Wactlar	73 Fells Road	Fells Road - Brown	\$125.00
Connie Inguanti	121 Devon Road	Devon Road - Black	\$100.00
Connie Inguanti	121 Devon Road	Bracket	\$50.00
Michelle Gallagher	295 Roseland Ave	Roseland Avenue - Black	\$10.00
Michelle Gallagher	295 Roseland Ave	Roseland Avenue - Brown	\$10.00
Isidoro Mazzara	164 Oldchester Road	Oldchester Road - Brown	\$25.00

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the borough of Essex Fells that the above-mentioned street signs be auctioned off to the residents with the amounts listed opposite their name.

**CALLING FOR THE MODERNIZATION OF THE OPEN PUBLIC RECORDS ACT (OPRA) AND THE SWIFT PASSAGE OF S-2930/A-4045**

**WHEREAS, in the 2002 “lame duck” session the Open Public Records Act (OPRA) was approved to make government records, “readily accessible for inspection, copying, or examination by the citizens of this State, with certain exceptions, for the protection of the public interest” while protecting “a citizen’s right to a reasonable expectation of privacy”; and**

**WHEREAS, as local leaders we reaffirm our support and commitment to open and transparent government and public access to records, at the same time, we strongly support necessary reforms; and**

**WHEREAS, in the twenty years since the enactment of OPRA and with the advent of new technologies, we have witnessed unintended consequences and, in some cases, abuses of OPRA that place an unfair burden on local governments and taxpayers; and**

**WHEREAS, municipal staff and budgets are increasingly utilized to accommodate the requestors and commercial entities who inundate municipalities with public records requests to the extent that in some instances, additional personnel are hired primarily to handle such requests; and**

**WHEREAS, OPRA has become broadly construed in favor of access and the requestor who prevails in any proceeding in appealing a denial of access of records is permitted to collect exorbitant attorney’s fees, which impacts the taxpayers and municipalities who must pay these fees; and**

**WHEREAS, municipalities have seen outside businesses and interests who abuse OPRA for marketing and commercial gains while utilizing municipal employees paid by the taxpayers for this benefit; and**

**WHEREAS, due to court decisions over the years, reasonable expectations of privacy have been diminished when it comes to the balance of transparency and OPRA perpetuates for-profit data-mining, unsolicited marketing, and uncontrolled publications of records on internet search engines specifically designed to circumvent and bypass what few protective measures currently exist under OPRA, all while allowing the requestor to remain cloaked in anonymity, should they choose to exercise that option; and**

**WHEREAS, when commercial entities are constantly emailing OPRA requests looking for the latest lists of dogs licensed that month, inground pool permits issued, solar roof permits issued, etc., it causes our residents to not want to license their dogs, comply with permits, or interact with the municipality because they don’t want to lose their privacy and/or have their information tracked and monetized for commercial purposes; and**

**WHEREAS, reforms to modernize OPRA are long overdue, among them: the need to address requests by commercial entities that utilize public records and the services of local government employees to generate profits, mandatory prevailing attorney fees, which created a cottage industry, and to add language so that such fees are based on facts and circumstances and not an automatic granting; and**

**WHEREAS, Senators Sarlo and Bucco and Assemblyman Danielsen and Assemblywoman Flynn have introduced S-2930/A-4045, which makes commonsense reforms that do not hinder residents or journalists from using OPRA to access public records, but will protect citizens’ personal information from disclosure, addresses the burdensome commercial requests and provide discretion when awarding prevailing attorney fees;**

**NOW, THEREFORE, BE IT RESOLVED, the governing body of the Borough of Essex Fells in the County of Essex respectfully request the adoption of much-needed reforms to modernize and strengthen the legislative intent of the Open Public Records Act (OPRA) and urges the swift passage of S-2930/A-4045; and**

**BE IT FURTHER RESOLVED, as local leaders, we reaffirm our support and commitment to open and transparent government and public access to records but at the same time, we strongly support necessary reforms; and**

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to Senate President Scutari, Assembly Speaker Coughlin, Senator Corrado, Assemblyman Barlas and Assemblyman DePhillips, Governor Murphy, and the New Jersey League of Municipalities.

**2024-76**

**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	3-01	\$2,950.00
Current	4-01	\$864,512.54
Borough Capital	C-04	\$11,050.00
Water	3-05	\$32,608.84
Water	4-05	\$109,752.36
Grant	04	\$0
Water Capital	C-06	\$16,250.36
Animal Control	T-10	\$0
Trust	T-11	\$1,259.58
Payroll	T-13	\$126,697.68
	T-16	\$2,637.40

And was carried on call of the roll:

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

On motion made by Councilwoman O'Connor seconded by Councilman Sullivan and approved unanimously by the Council, the meeting adjourned at 7:53 p.m.

Respectfully submitted,

Francine T. Paserchia  
Municipal Clerk