

**PRELIMINARY OFFICIAL STATEMENT DATED JANUARY 26, 2011**

**NEW ISSUE (Book-Entry Only)**

**Rating: Moody's:  
(See "Rating" herein)**

*In the opinion of Gibbons P.C., Bond Counsel to the Borough, assuming continuing compliance by the Borough with certain tax covenants described herein, under existing law, interest on the Bonds is excluded from the gross income of the owners of the Bonds for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and interest on the Bonds is not an item of tax preference under Section 57 of the Code for purposes of computing alternative minimum tax. Under existing law, interest on the Bonds and net gains from the sale of the Bonds are exempt from the tax imposed by the New Jersey Gross Income Tax Act. In the case of certain corporate holders of the Bonds, interest on the Bonds will be included in the calculation of the alternative minimum tax as a result of the inclusion of interest on the Bonds in "adjusted current earnings" of certain corporations. See "TAX MATTERS" herein.*

**\$3,349,000  
BOROUGH OF ESSEX FELLS  
IN THE COUNTY OF ESSEX, NEW JERSEY  
GENERAL OBLIGATION BONDS, SERIES 2011  
Consisting of  
\$1,633,000 GENERAL IMPROVEMENT BONDS, SERIES 2011  
and  
\$1,716,000 WATER UTILITY BONDS, SERIES 2011  
(CALLABLE) (BANK-QUALIFIED)**

**Dated: Date of Delivery**

**Due: February 1, as shown below**

The \$3,349,000 General Obligation Bonds, Series 2011, consisting of \$1,633,000 General Improvement Bonds, Series 2011 and \$1,716,000 Water Utility Bonds, Series 2011 (collectively, the "Bonds"), will be issued by the Borough of Essex Fells, New Jersey (the "Borough") in fully registered form and, when issued, the Bonds will be registered in the name of CEDE & Co. ("Cede"), as nominee for The Depository Trust Company, New York, New York ("DTC"), an automated depository for securities and clearinghouse transactions, which will act as securities depository for the Bonds. Individual purchases will be made in book-entry form (without certificates) through DTC Participants, as hereinafter defined, in the denominations of \$1,000 or any integral multiple thereof (with a minimum purchase of \$5,000), except for two odd pieces. Purchasers will not receive certificates representing their ownership interest in the Bonds. Provided DTC or its nominee Cede is the registered owner of the Bonds, principal of, redemption premium, if any, and interest (payable semi-annually beginning on August 1, 2011 and on each February 1 and August 1 thereafter until maturity or prior redemption) on the Bonds will be paid to DTC or its nominee which is obligated to remit such principal, redemption premium, if any, and interest to DTC Participants, as defined herein. DTC Participants and Indirect Participants, as defined herein, will be responsible for remitting such payments to the Beneficial Owners of the Bonds. See "THE BONDS" and "BOOK-ENTRY ONLY SYSTEM" herein.

The Bonds are being issued pursuant to the Local Bond Law of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended, various ordinances and a resolution of the Borough, to permanently finance specified general improvements.

The full faith and credit of the Borough are irrevocably pledged for the payment of the principal of, redemption premium, if any, and interest on the Bonds. The Bonds will be valid and binding general obligations of the Borough, payable as to principal, redemption premium, if any, and interest from the levy of ad valorem taxes upon all taxable property within the Borough, without limitation as to rate or amount.

The Bonds are subject to redemption prior to their stated maturities, as defined herein.

**Combined Maturities, Interest Rates and Yields**

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Yield</u>
2012	\$ 160,000	%	%	2019	\$ 270,000	%	%
2013	205,000			2020	285,000		
2014	215,000			2021	300,000		
2015	225,000			2022	306,000		
2016	240,000			2023	313,000		
2017	250,000			2024	320,000		
2018	260,000						

*The Bonds are offered when, as and if issued and delivered to the purchaser, subject to prior sale, to withdrawal or modification of the offer without notice and to approval of legality by the law firm of Gibbons P.C., Newark, New Jersey and certain other conditions described herein. Delivery is anticipated to be through the facilities of DTC in New York, New York, on or about February 10, 2011.*

**Dated: February \_\_, 2011**

This is a Preliminary Official Statement "deemed final" within the meaning of, and with the exception of certain information permitted to be omitted by Rule 15c2-12 of the Securities and Exchange Commission, and is otherwise subject to change in accordance with applicable law. The Borough will deliver a final Official Statement in compliance with Rule 15c2-12. This Preliminary Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale prior to registration, qualification or exemption under the securities laws of any such jurisdiction.

**BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX  
NEW JERSEY**

**MAYOR**

Edward P. Abbot

**BOROUGH COUNCIL**

John King  
Jane McWilliams  
William Sullivan  
George Peck  
Jack Taylor  
Patricia Wahl

**BOROUGH ADMINISTRATOR**

Francine T. Paserchia

**CHIEF FINANCIAL OFFICER**

Richard Mondelli

**BOROUGH CLERK**

Francine T. Paserchia

**BOROUGH ATTORNEY**

Martin F. Murphy, Esq.  
Riverdale, New Jersey

**AUDITORS**

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Certified Public Accountants  
Newark, New Jersey

**BOND COUNSEL**

Gibbons P.C.  
Newark, New Jersey

No dealer, broker or salesperson or other person has been authorized by the Borough to give any information or to make any representations with respect to the Bonds other than those contained in this Official Statement, and if given or made, such information or representations must not be relied upon as having been authorized by the Borough. The information contained herein has been provided by the Borough and other sources deemed reliable; however, no representation or warranty is made as to its accuracy or completeness and such information is not to be construed as a representation of accuracy or completeness and such information is not to be construed as a representation or warranty by the Underwriter or, as to information from sources other than itself, by the Borough. The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale hereunder shall, under any circumstances, create any implication that there has been no change in any of the information herein since the date hereof, or the date as of which such information is given, if earlier.

References in this Official Statement to laws, rules, regulations, resolutions, agreements, reports and documents do not purport to be comprehensive or definitive. All references to such documents are qualified in their entirety by references to the particular document, the full text of which may contain qualifications of and exceptions to statements made herein, and copies of which may be inspected at the offices of the Borough's Chief Financial Officer during normal business hours.

This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds in any jurisdiction in which it is unlawful for any person to make such an offer, solicitation or sale. No dealer, broker, salesman or other person has been authorized to give any information or to make any representations other than as contained in this Official Statement. If given or made, such other information or representations must not be relied upon as having been authorized by the Borough or the Underwriter.

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## OFFICIAL STATEMENT

**\$3,349,000**  
**BOROUGH OF ESSEX FELLS**  
**IN THE COUNTY OF ESSEX, NEW JERSEY**  
**GENERAL OBLIGATION BONDS, SERIES 2011**  
Consisting of  
**\$1,633,000 GENERAL IMPROVEMENT BONDS, SERIES 2011**  
and  
**\$1,716,000 WATER UTILITY BONDS, SERIES 2011**

### INTRODUCTION

This Official Statement, which includes the cover page and the appendices attached hereto, is furnished by the Borough of Essex Fells (the "Borough"), in the County of Essex (the "County"), State of New Jersey (the "State"), in connection with the sale and issuance of \$3,349,000 General Obligation Bonds, Series 2011 consisting of \$1,633,000 General Improvement Bonds, Series 2011 and \$1,716,000 Water Utility Bonds, Series 2011 (the "Bonds"). This Official Statement has been executed by and on behalf of the Borough by the Chief Financial Officer.

### THE BONDS

#### General Description

The Bonds shall be dated the date of delivery and mature on February 1 in the years and in the principal amounts as set forth on the front cover page hereof. Interest on the Bonds is payable semiannually on the first day of February and August in each year, commencing on August 1, 2011 until maturity or prior redemption. Interest on the Bonds will be credited to the participants of the Securities Depository, as listed on the records of the Securities Depository as of each next preceding January 15 and July 15.

#### Denomination and Place of Payment

The Bonds will be issued in fully-registered form and registered in the name of CEDE & Co., as nominee of The Depository Trust Company, New York, New York, which will act as the securities depository (the "Securities Depository"). Principal of and interest on the Bonds will be paid by the Borough as paying agent (the "Paying Agent") to the Securities Depository.

The Bonds are issuable as fully registered book-entry bonds in the form of one certificate for the aggregate principal amount of the Bonds maturing in each year. So long as DTC or its nominee, CEDE & Co. (or any successor or assign), is the registered owner of the Bonds, payments of the principal of and interest on the Bonds will be made by the Paying Agent directly to CEDE & Co. (or any successor or assign), as nominee for DTC. Disbursement of such payments to the participants of DTC is the responsibility of DTC. See "Book-Entry Only System" herein.

#### Book-Entry Only System

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully registered Bonds registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully registered Bond certificate will be issued for each year of maturity of each series of the Bonds, in the aggregate principal amount of each maturity, and will be deposited with DTC.

DTC, the world's largest depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's

participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks and trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co., or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to the Bonds unless authorized by a Direct Participant in accordance with DTC’s Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Borough as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.’s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds and principal and interest payments on the Bond will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC’s practice is to credit Direct Participants’ accounts upon DTC’s receipt of funds and corresponding detail information from the Borough or the paying agent, if any, on the payable date in accordance with their respective holdings shown on DTC’s records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in “streetname,” and shall be the responsibility of such Participant and not of DTC or its nominee, the paying agent, if any, or the Borough, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Borough or the paying agent, if any, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Bonds at any time by giving reasonable notice to the Borough or the paying agent, if any. Under such circumstances, in the event that a successor securities depository is not obtained, bond certificates are required to be printed and delivered.

The Borough may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, bond certificates will be printed and delivered.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Borough believes to be reliable, but the Borough takes no responsibility for the accuracy thereof.

**THE PAYING AGENT WILL NOT HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH DTC PARTICIPANTS OR THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE PAYMENTS TO OR PROVIDING OF NOTICE FOR THE DTC PARTICIPANTS, OR THE INDIRECT PARTICIPANTS, OR BENEFICIAL OWNERS.**

**SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE BONDS, AS NOMINEE OF DTC, REFERENCES HEREIN TO THE BONDHOLDERS OR REGISTERED OWNERS OF THE BONDS (OTHER THAN UNDER THE CAPTION "TAX MATTERS") SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE BONDS.**

#### **Discontinuation of Book-Entry Only System**

If the Borough, in its sole discretion, determines that DTC is not capable of discharging its duties, or if DTC discontinues providing its services with respect to the Bond at any time, the Borough will attempt to locate another qualified Securities Depository. If the Borough fails to find such a Securities Depository, or if the Borough determines, in its sole discretion, that it is in the best interest of the Borough or that the interest of the Beneficial Owners might be adversely affected if the book-entry only system of transfer is continued (the Borough undertakes no obligation to make an investigation to determine the occurrence of any events that would permit it to make such determination) the Borough shall notify DTC of the termination of the book-entry only system.

#### **Optional Redemption Provisions**

The Bonds maturing on or prior to February 1, 2021 shall not be subject to redemption prior to their respective maturity dates. The Bonds maturing on or after February 1, 2022 shall be subject to redemption prior to their respective maturity dates, on or after February 1, 2021 at the option of the Borough, either in whole or in part at any time in any order of maturity at one hundred percent (100%) of the principal amount of the Bonds being redeemed (the "Redemption Price"), plus in each case accrued interest thereon to the date fixed for redemption.

#### **Notice of Redemption**

Notice of Redemption shall be given by publishing such notice once a week for two (2) successive weeks in a newspaper of general circulation that carries financial news, is printed in the English language and is customarily published on each business day in the State of New York, the first of such publications to be at least thirty (30) but not more than sixty (60) days before the date fixed for redemption. A Notice of Redemption shall also be mailed by first class mail in a sealed envelope with postage prepaid to the registered owners of such Bonds at their respective addresses as they last appear on the registration books kept for that purpose by the Borough. However, so long as DTC (or any successor thereto) acts as Securities Depository for the Bonds, Notices of Redemption shall be sent to such depository and shall not be sent to the beneficial owners of the Bonds, nor shall the notice be published as provided herein. Any failure of such depository to advise any of its participants or any failure of any participant to notify any beneficial owner of any Notice of Redemption shall not affect the validity of the redemption proceedings. If the Borough determines to redeem a portion of the Bonds of a maturity, such Bonds shall be selected by the Borough by lot. If Notice of Redemption has been given as described herein, the Bonds, or the portion thereof called for redemption, shall be due and payable on the date fixed for redemption at the Redemption Price, together with accrued interest to the date fixed for redemption. Payment shall be made upon surrender of the Bonds redeemed.



**AUTHORIZATION AND PURPOSE OF THE BONDS**

The Bonds are authorized and are to be issued pursuant to the Local Bond Law of the State, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). The Bonds were authorized by various bond ordinances adopted by the Borough Council, and by virtue of a resolution adopted by the Borough Council on January 18, 2011.

The Bonds are being issued to provide funds to refund certain outstanding bond anticipation notes of the Borough and permanently finance various capital projects of the Borough.

**\$1,633,000 GENERAL IMPROVEMENT BONDS**

The General Improvement Bonds are being issued pursuant to the Local Bond Law of the State, N.J.S.A. 40A:2-1 et seq., and various bond ordinances of the Borough as set forth below:

<u>Ordinance Number</u>	<u>Description</u>	<u>Amount</u>
2003-755	Various interior improvements to the Municipal Building	\$1,013,000
2010-903	Various capital improvements	<u>620,000</u>
	Total	<u><u>\$1,633,000</u></u>

**\$1,716,000 WATER UTILITY BONDS**

The Water Utility Bonds are being issued pursuant to the Local Bond Law of the State, N.J.S.A. 40A:2-1 et seq., and various bond ordinances of the Borough as set forth below:

<u>Ordinance Number</u>	<u>Description</u>	<u>Amount</u>
2003-759	Construction of a water interconnection and transmission main to connect the Water Utility to New Jersey American Water Company Facilities	\$ 1,038,000
2008-858	Rehabilitation of a water tank located at Fells Road	<u>678,000</u>
	Total	<u><u>\$ 1,716,000</u></u>

**SECURITY FOR THE BONDS**

The Bonds are valid and legally binding obligations of the Borough and the full faith and credit of the Borough are pledged to the payment of the principal of and interest on the Bonds, for which payment the Borough is obligated to levy ad valorem taxes upon all the taxable property within the Borough without limitation as to rate or amount.

Enforcement of a claim for the payment of principal of or interest on bonds or notes of the Borough is subject to applicable provisions of Federal bankruptcy laws and to the provisions of statutes, if any, hereafter enacted by the Congress of the United States or the Legislature of the State of New Jersey, providing extension with respect to the payment of principal of or interest on the Bonds or imposing other constraints upon enforcement of such contracts insofar as any such constraints may be constitutionally applied. Under State law, a county, municipality or other political subdivision may file a petition under Federal bankruptcy laws and a plan for readjustment of its debt, but only after first receiving the approval of the State Municipal Finance Commission whose powers have been vested in the Local Finance Board.

## **PROVISIONS FOR THE PROTECTION OF GENERAL OBLIGATION DEBT**

### **Local Bond Law (N.J.S.A. 40A:2-1 et seq.)**

The Local Bond Law governs the issuance of bonds and notes to finance certain general municipal and utility capital expenditures. Among its provisions are requirements that bonds must mature within the statutory period of usefulness of the projects bonded and that bonds be retired in serial installments. A 5% cash down payment is generally required toward the financing of expenditures for municipal purposes. All bonds and notes issued by the Borough are general full faith and credit obligations.

### **Debt Limits**

The authorized bonded indebtedness of the Borough for municipal purposes is limited by statute, subject to the exceptions noted below, to an amount equal to 3.50% of its average equalized valuation basis. The average for the last three years, of the equalized value of all taxable real property and improvements and certain Class II railroad property within its boundaries, as annually determined by the State Director of Taxation, is \$869,502,538.

Certain categories of debt are permitted by statute to be deducted for purposes of computing the statutory debt limit, including school bonds that do not exceed the school bond borrowing margin and certain debt that may be deemed self-liquidating.

The Borough has not exceeded its statutory debt limit. At December 31, 2009, the statutory net debt as a percentage of average equalized valuation was 0.477%. As noted above, the statutory limit is 3.50%.

### **Exceptions to Debt Limits - Extensions of Credit**

The Borough may exceed its debt limit with the approval of the Local Finance Board, a State regulatory agency (the "Local Finance Board"). If all or any part of a proposed debt authorization would exceed its debt limit, the Borough must apply to the Local Finance Board for an extension of credit. If the Local Finance Board determines that a proposed debt authorization would not materially impair the credit of the Borough or substantially reduce the ability of the Borough to meet its obligations or to provide essential public improvements and services, or if it makes certain other statutory determinations, approval is granted. In addition, debt in excess of the statutory limit may be issued by the Borough without the approval of the Local Finance Board to fund certain notes for self-liquidating purposes, and, in each fiscal year, to provide for purposes in an amount not exceeding 2/3 of the amount budgeted in such fiscal year for the retirement of outstanding obligations (exclusive of utility and assessment obligations).

### **Short-Term Financing**

The Borough may issue short-term "bond anticipation notes" to temporarily finance a capital improvement or project in anticipation of the issuance of bonds, if the bond ordinance or subsequent resolution so provides. Bond anticipation notes for capital improvements may be issued in an aggregate amount not exceeding the amount specified in the ordinance, as may be amended and supplemented, creating such capital expenditures. A local unit's bond anticipation notes may be issued for periods not greater than one year. Generally, bond anticipation notes may not be outstanding for longer than ten years. An additional period may be available following the tenth anniversary date equal to the period from the notes' maturity to the end of the tenth fiscal year in which the notes mature plus 4 months in the next following fiscal year from the date of original issuance. Certain statutory payments are required if the notes are renewed beyond the third anniversary date equal to the minimum amount required for the first year's principal payment for a bond issue.

### **School Debt**

State law permits the school district to authorize school district debt, including debt in excess of its independent debt limit of 4% of the equalized evaluation basis, by using the available borrowing capacity of the Borough. If such debt is in excess of the school district debt limit and the remaining borrowing capacity of the Borough, the State Commissioner of Education and the Local Finance Board must approve the proposed debt authorization.

## **The Local Budget Law (N.J.S.A. 40A:4-1 et seq.)**

The foundation of the New Jersey local finance system is the annual cash basis budget. Every local unit must adopt a budget in the form required by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"). Certain items of revenue and appropriation are regulated by law and the proposed budget must be certified by the Director of the Division (the "Director") prior to final adoption. The Local Budget Law requires each local unit to appropriate sufficient funds for payment of current debt service, and the Director is required to review the adequacy of such appropriations.

The Director has no authority over individual operating appropriations, unless a specific amount is required by law, but the review functions focusing on anticipated revenues serve to protect the solvency of all local units.

The cash basis budgets of local units must be in balance, i.e., the total of anticipated revenues must equal the total of appropriations (N.J.S.A. 40A:4-22). If in any year a local unit's expenditures exceed its realized revenues for that year, then such excess must be raised in the succeeding year's budget.

## **Limitations on Municipal Appropriations and Tax Levy**

A provision of law known as the New Jersey "Cap Law" (N.J.S.A. 40A:4-45.1 et seq.) imposes limitations on increases in municipal appropriations subject to various exceptions. The payment of debt service is an exception from this limitation. The Cap formula is somewhat complex, but basically, it permits a municipality to increase its overall appropriations by the lesser of 2.5% or the "Index Rate" if the index rate is greater than 2.5%. The "Index Rate" is the rate of annual percentage increase, rounded to the nearest one-half percent, in the Implicit Price Deflator for State and Local Government purchases of goods and services computed by the U.S. Department of Commerce. Exceptions to the limitations imposed by the Cap Law also exist for other things including capital expenditures; extraordinary expenses approved by the Local Finance Board for implementation of an interlocal services agreement; expenditures mandated as a result of certain emergencies; and certain expenditures for services mandated by law. Counties are also prohibited from increasing their tax levies by more than the lesser of 2.5% or the Index Rate subject to certain exceptions. Municipalities by ordinance approved by a majority of the full membership of the governing body may increase appropriations up to 3.5% over the prior year's appropriation and counties by resolution approved by a majority of the full membership of the governing body may increase the tax levy up to 3.5% over the prior years' tax levy in years when the Index Rate is 2.5% or less.

Additionally, the Legislature of the State of New Jersey has previously enacted P.L. 2007, c. 62 (the "Property Tax Act") effective April 3, 2007, which imposed a 4% cap on the tax levy of a municipality, county, fire district or solid waste collection district, with certain exceptions and subject to a number of adjustments. The Property Tax Act has now been amended by the provisions of P.L. 2010, c. 44 effective June 13, 2010 (the "Amendment") and applicable to the next budget year following enactment. The Amendment reduces the tax levy cap to 2% from 4%, limits exclusions only to capital expenditures, including debt service, certain increases in pension contributions and accrued liability for pension contributions in excess of 2%, certain healthcare cost increases in excess of 2% and extraordinary costs directly related to a declared emergency. Waivers from the Division of Local Government Services or the Local Finance Board are no longer available under the Amendment.

Neither the tax levy limitation nor the "Cap Law" limits the obligation of the Borough to levy ad valorem taxes upon all taxable property within the Borough to pay debt service on its bonds or notes.

## **Miscellaneous Revenues**

The Local Budget Law (N.J.S.A. 40A:4-26) provides that: "No miscellaneous revenues from any source shall be included as an anticipated revenue in the budget in excess of the amount actually realized in cash from the same source during the next preceding fiscal year, unless the director shall determine upon application by the governing body that the facts clearly warrant the expectation that such excess amount will actually be realized in cash during the fiscal year and shall certify such determination, in writing, to the local unit."

No budget or amendment thereof shall be adopted unless the Director shall have previously certified his approval of such anticipated revenues except that categorical grants-in-aid contracts may be included for their face amount with an offsetting appropriation. The fiscal years for such grants rarely coincide with the municipality's calendar year. However, grant revenue is generally not realized until received in cash.

## Real Estate Taxes

The same general principle that revenue cannot be anticipated in a budget in excess of that realized in the preceding year applies to property taxes. N.J.S.A. 40A:4-29 governs anticipation of delinquent tax collections: "The maximum which may be anticipated is the sum produced by multiplication of the amount of delinquent taxes unpaid and owing to the local unit on the first day of the current fiscal year by the percentage of collection of delinquent taxes for the year immediately preceding the current fiscal year."

N.J.S.A. 40A:4-41 provides with regard to current taxes that: "Receipts from the collection of taxes levied or to be levied in the municipality, or in the case of a county for general county purposes and payable in the fiscal year, shall be anticipated in an amount which is not in excess of the percentage of taxes levied and payable during the next preceding fiscal year which was received in cash by December 31, of such preceding fiscal year."

This provision and N.J.S.A. 40A:4-40 require that an additional amount (the "Reserve for Uncollected Taxes") be added to the tax levy required to balance the budget so that when the percentage of the prior year's tax collection is applied to the combined total, the product will at least be equal to the tax levy required to balance the budget. The reserve requirement is calculated as follows:

Levy required to balance budget = Total Taxes to be Levied  
Prior Year's Percentage of Borough's  
Current Tax Collections or Less

## Deferral of Current Expenses

Emergency appropriations (those made after the adoption of the budget and the determination of the tax rate) may be authorized by the Borough Council. However, with minor exceptions, such appropriations must be included in full in the following year's budget.

The exceptions are certain enumerated quasi-capital projects ("special emergencies") such as ice, snow, and flood damage to streets, roads and bridges, which may be amortized over three years, and tax map preparation, re-evaluation programs, revisions and codification of ordinances, master plan preparations and drainage map preparation for flood control purposes which may be amortized over five years. Of course, emergency appropriations for capital projects may be financed through the adoption of a bond ordinance and amortized over the useful life of the project.

## Budget Transfers

Budget transfers provide a degree of flexibility and afford a control mechanism. Transfers between appropriation accounts may be made only during the last two months of the year. Appropriation reserves may also be transferred during the first three (3) months of the year, to the previous years' budget. Both types of transfers require a 2/3 vote of the full membership of the governing body; however, transfers cannot be made from either the down payment account or the capital improvement fund. Transfers may be made between sub-account line items within the same account at any time during the year, subject to internal review and approval. In a "CAP" budget, no transfers may be made from excluded from "CAP" appropriations to within "CAPS" appropriations nor can transfers be made between excluded from "CAP" appropriations.

## Operation of Utilities

Municipal public utilities are supported by the revenues generated by the respective operations of the utilities in addition to the general taxing power upon real property.

For each utility, there is established a separate budget. The anticipated revenues and appropriations for each utility are set forth in the separate budget. The budget is required to be balanced and to provide fully for debt service. The regulations regarding anticipation of revenues and deferral of charges apply equally to the budgets of the utilities.

Deficits or anticipated deficits in utility operations which cannot be provided for from utility surplus, if any, are required to be raised in the "Current" or operating budget.

## **Capital Budget**

In accordance with the Local Budget Law, the Borough must adopt and may from time to time amend rules and regulations for capital budgets, which rules and regulations must require a statement of capital undertakings underway or projected for a period not greater than over the next ensuing six years as a general improvement program. The capital budget, when adopted, does not constitute the approval or appropriation of funds, but sets forth a plan of the possible capital expenditures which the local unit may contemplate over the six years. Expenditures for capital purposes may be made either by ordinances adopted by the governing body setting forth the items and the method of financing or from the annual operating budget if the terms were detailed.

## **The Local Fiscal Affairs Law (N.J.S.A. 40A:5-1 et seq.)**

This law regulates the nonbudgetary financial activities of local governments. The chief financial officer of every local unit must file annually, with the Director, a verified statement of the financial condition of the local unit and all constituent boards, agencies or commissions.

An independent examination of each local unit's accounts must be performed annually by a licensed registered municipal accountant. The audit, conforming to the Division of Local Government Services' "Requirements of Audit", includes recommendations for improvement of the local units financial procedures and must be filed with the report, together with all recommendations made, and must be published in a local newspaper within 30 days of its submission. The entire annual audit report for the year ended December 31, 2009 is on file with the Borough Clerk and is available for review during business hours.

## **GENERAL INFORMATION ABOUT THE BOROUGH OF ESSEX FELLS**

The Borough of Essex Fells, incorporated in the year 1902, is an attractive upper middle-class residential community located in western Essex County, approximately 9.2 miles from the City of Newark, New Jersey, and 26.4 miles from New York City. Its residents include a substantial number of business and professional people who commute to Newark and New York, as well as people who work in industries in nearby communities. Approximately 98% of homes are owner occupied. The Borough has no passenger train service, but has bus transportation to the surrounding communities and to Newark and New York. Commuters to Newark and New York may also travel by bus or private car to nearby municipalities and take N.J. Transit.

## **Municipal Government**

The Borough operates under the Borough form of government. Under this system, a professionally trained administrator is responsible to an elected six-member council and elected mayor for the administration of Borough affairs. Equalized valuations (true value) of real estate in the Borough were certified by the County Board of Taxation at \$829,476,548 for 2010. Tax collection in 2009 reached 98.46 percent of tax levy. Borough debt as of December 31, 2009 was 0.477 percent of statutory valuations.

## **Public Works**

The Borough has 36 miles of paved streets, 80 miles of water mains and 42 miles of sanitary sewers. The water pollution control facility has been completely modernized and rehabilitated. Water facilities are owned and operated by the Borough on a utility basis. Costs of sewer lines are largely recovered by assessments against properties benefitted and sewer maintenance and treatment costs are offset by revenue from sewer rental charges. Gas and electric services are provided by privately-owned public utility companies.

## **Public Safety**

The Borough is served by an efficient public safety department with outstanding police and fire divisions. Fire insurance rates for the Borough were reduced in recent years as a result of a survey of fire protection facilities by insurance underwriters.

**Recreation**

The Borough enjoys an excellent recreation program for all ages, supervised by a Director and an advisory Recreation Council. The Recreation Department provides recreational opportunities, operates summer play programs, a skating pond, playing fields and other facilities.

**Public Library**

The Borough shares the Caldwell Public Library. It is staffed by 2 full-time librarians, 2 full-time staff, additional part-time workers and offers reference as well as complete children and adult reading services in its own building. The library is linked with 17 area libraries. Major alterations are presently under construction at this facility.

**Education**

The Borough and School District are coterminous. The District is an independent legal entity operating under Title 18A of the New Jersey Statutes.

The public school system, under the administration of a five-member Board of Education elected by the citizens for three-year terms, includes one elementary school, Pre-K through 6<sup>th</sup> grade. Present enrollment in this school is approximately 232. The school enjoys an excellent reputation.

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**POPULATION**

<u>Year</u>	<u>Source</u>	<u>Population</u>
2000	Federal Census	2,162
1990	Federal Census	2,139
1980	Federal Census	2,363

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**ECONOMIC INFORMATION**

<u>Median Family Income - 2000</u>				<u>Per Capita Income</u>				
<u>Income Group</u>	<u>Borough of Essex Fells</u>	<u>County of Essex</u>	<u>State of New Jersey</u>	<u>Year</u>	<u>Borough of Essex Fells</u>	<u>County of Essex</u>	<u>State of New Jersey</u>	
\$ 0 - \$ 9,999.00	6	17,507	88,844	2000	\$77,434.00	\$24,943.00	\$27,006.00	
10,000.00 - 14,999.00	4	8,561	58,500	1990	53,363.00	17,574.00	18,714.00	
15,000.00 - 24,999.00	16	19,065	156,939					
25,000.00 - 34,999.00	16	18,967	189,840					
35,000.00 - 49,999.00	37	25,829	293,442					
50,000.00 - 74,999.00	77	35,142	463,743					
75,000.00 - 99,999.00	77	23,878	342,115					
100,000.00 - 149,999.00	140	24,183	340,376					
150,000.00 - 199,999.00	92	8,940	115,666					
200,000.00 - And Over	<u>272</u>	<u>12,582</u>	<u>118,112</u>					
Total Families	<u>737</u>	<u>194,654</u>	<u>2,167,577</u>					
Median Family Income	<u>\$148,173</u>	<u>\$54,818</u>	<u>\$ 65,370</u>					

Source: 2000 Income Census, U.S. Bureau of the Census

Source: United States Department of Commerce  
Bureau of the Census



BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

LABOR FORCE ESTIMATES

<u>Year</u>	<u>Borough of Essex Fells</u>			
	<u>Labor Force</u>	<u>Number Employed</u>	<u>Number Unemployed</u>	<u>Unemployment Rate</u>
2009	989	935	54	5.50 %
2008	1,002	975	27	2.70
2007	1,009	986	22	2.20
2006	1,028	1,003	25	2.50
2005	996	984	12	1.20

<u>Year</u>	<u>County of Essex</u>			
	<u>Labor Force</u>	<u>Number Employed</u>	<u>Number Unemployed</u>	<u>Unemployment Rate</u>
2009	367,823	329,123	38,700	10.50 %
2008	366,591	342,494	24,097	6.60
2007	364,028	344,681	19,347	5.30
2006	370,600	349,200	21,400	5.80
2005	366,324	345,881	20,443	5.60

<u>Year</u>	<u>State of New Jersey</u>			
	<u>Labor Force</u>	<u>Number Employed</u>	<u>Number Unemployed</u>	<u>Unemployment Rate</u>
2009	4,536,700	4,118,400	418,300	9.20 %
2008	4,496,700	4,251,200	245,500	5.50
2007	4,462,300	4,271,700	190,600	4.30
2006	4,518,000	4,309,000	209,000	4.60
2005	4,430,373	4,235,937	194,436	4.40

Source: New Jersey Department of Labor, Division of Planning and Research,  
Office of Demographics and Economic Analysis

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**HOUSING CHARACTERISTICS - HOUSING UNITS - 2000**

	<u>Borough of Essex Fells</u>	<u>County of Essex</u>	<u>State of New Jersey</u>
Number of Units:			
Owner Occupied	709	129,447	2,011,473
Renter Occupied	28	154,289	1,053,172
Vacant	<u>24</u>	<u>17,275</u>	<u>245,630</u>
Total	<u>761</u>	<u>301,011</u>	<u>3,310,275</u>
Median Value Owned	<u>\$584,100</u>	<u>\$208,400</u>	<u>\$ 170,800</u>
<u>Year Structure Built - All Year-Round Units</u>			
1999 to March 2000	0	2,212	48,124
1995 to 1998	6	6,037	139,421
1990 to 1994	10	6,177	158,581
1980 to 1989	14	16,345	409,978
1970 to 1979	28	26,471	462,740
1960 to 1969	116	45,001	526,732
1940 to 1959	267	104,226	898,653
1939 or Earlier	320	94,542	666,046

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Source: 2000 Census of Housing, U.S. Bureau of the Census

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**BUILDING PERMITS**

<u>Year</u>	<u>*Total Number</u>	<u>Construction Value</u>
2010	186	\$ 3,364,090.00
2009	149	2,631,965.00
2008	164	4,561,513.00
2007	209	12,245,600.00
2006	188	4,965,713.00

\*Includes new building, alterations, additions and permit updates.

Source: Borough of Essex Fells

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**TEN LARGEST TAXPAYERS**

<u>Taxpayer</u>	2010 Assessed <u>Valuation</u>
Essex Fells Country Club	\$18,456,100
Christian and Marie Peter	5,763,000
Robert and Jacquelyn Burke	4,282,100
Mclanie Dubais	4,277,600
Neil and Joyce Goldstein	4,093,700
Ira and Barbara Goldberg	4,018,400
Beth Mastrangelo	3,764,800
Francis and Carol Lecates	3,673,900
Roger and Carol Chartouni	3,650,000
Basil Maher and Miriam Duffy	<u>3,639,000</u>
	<u>\$55,618,600</u>

Source: Essex Fells Borough Tax Assessor

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**REAL PROPERTY CLASSIFICATION**  
**2006 - 2010 (ASSESSED VALUATION)**

<u>Year</u>	<u>Vacant Land</u>	<u>Residential</u>	<u>Commercial</u>	<u>Total Real Property</u>	<u>Business Personal Taxable</u>	<u>Net Valuation Taxable</u>	<u>Tax Exempt Property</u>
2010	\$6,463,200	\$735,974,800	\$25,143,800	\$767,581,800	\$336,248	\$767,918,048	\$109,142,100
2009	7,145,600	785,894,700	22,047,400	815,087,700	331,433	815,419,133	108,499,600
2008	9,116,500	788,448,000	22,047,400	819,611,900	247,614	819,859,514	108,489,600
2007	9,147,000	783,758,100	22,047,400	814,952,500	295,363	815,247,863	103,417,000
2006	9,322,600	780,328,850	22,047,400	811,698,850	295,363	811,994,213	103,417,000

Source: Borough of Essex Fells

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**ASSESSED VALUATION AND TAX RATES**

<u>Year</u>	<u>Real Property</u>	<u>Net Taxable Value Real and Personal Property*</u>	<u>Tax Rate per \$100.00</u>	<u>Real Property Assessed Valuation as a Percentage of True Value</u>
2010	\$767,581,800	\$767,918,048	\$1.721	92.62 %
2009	815,087,700	815,419,133	1.606	94.11
2008	819,611,900	819,859,514	1.617	89.62
2007	814,952,500	815,247,863	1.490	92.56
2006	811,698,850	811,994,213	1.470	100.15

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\*Consists of machinery, implements and equipment of telephone, telegraph and messenger systems companies (Chapter 38, P.L. 1966).

Source: Abstract of Ratables

**COMPARISON OF COMPONENTS OF TAX RATE**

	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>
Tax Rate	<u>\$1.721</u>	<u>\$1.606</u>	<u>\$1.617</u>	<u>\$1.490</u>	<u>\$1.470</u>
Apportionment of Tax Rate:					
Municipal	\$ .391	\$ .370	\$ .350	\$ .320	\$ .310
County	.422	.397	.420	.410	.430
County Open Space	.016	.016	.017	.010	.010
Local School	.525	.475	.454	.430	.400
Regional High School	<u>.367</u>	<u>.348</u>	<u>.376</u>	<u>.320</u>	<u>.320</u>
	<u>\$1.721</u>	<u>\$1.606</u>	<u>\$1.617</u>	<u>\$1.490</u>	<u>\$1.470</u>

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**TAX COLLECTION EXPERIENCE**

<u>Year</u>	<u>Tax Levy</u>	<u>Collections During</u> <u>Year of Levy</u>		<u>Collections to Date</u> <u>Dec. 31</u>		<u>*Uncollected</u> <u>Dec. 31</u>
		<u>Amount</u>	<u>Percentage</u>	<u>Amount</u>	<u>Percentage</u>	
2009	\$ 13,110,207.76	\$ 12,909,486.79	98.46 %	\$ 12,909,486.79	98.46 %	\$ 97,259.09
2008	13,305,564.60	13,015,915.28	97.82	13,163,471.73	98.93	
2007	12,229,037.55	11,939,514.90	97.63	12,222,710.03	99.95	
2006	11,994,284.19	11,873,132.52	98.99	11,873,132.52	98.99	
2005	11,367,578.75	11,205,075.77	98.57	11,309,033.68	99.49	

\*Balances remaining after credits for remissions and transfers to tax title liens.

**Tax Collection Procedure**

Property taxes are based on the Assessor's valuation of real property and are levied for the calendar year. The taxes for Borough, Local School District and County purposes are combined into one levy, which is apportioned on the tax bill by rate and amount for taxpayer information only. Taxes levied for the purposes of the Local School District cover the school fiscal year. Turnovers by the Borough to the Board of Education are based on school needs and are generally made on a periodic basis throughout the year. The Borough remits County Taxes quarterly, on the 15th days of February, May, August and November.

Tax bills for the second half of the current year's levy and an estimate, based on 50% of the levy for the first half of the following year, are mailed annually in June and are due in quarterly installments on the first day of the months of August, November, February and May. Delinquent payments are subject to an interest penalty at 8% on the first \$1,500.00 of delinquency and 18% on amounts exceeding \$1,500.00. Unpaid taxes are subject to tax sale as of November 1 in the year of levy, in accordance with statutes of the State of New Jersey. Tax liens are subsequently subject to foreclosure proceedings in order to enforce tax collections or acquire title to the property.

**WATER CONSUMER ACCOUNTS RECEIVABLE**

A comparison of Water Utility billings and collections for the past five years are as follows:

<u>Year</u>	<u>Billings</u>	<u>Collections</u>
2009	\$ 2,009,334.88	\$ 2,231,152.57
2008	2,249,711.02	2,294,435.93
2007	2,210,154.86	2,117,947.27
2006	2,110,187.60	2,139,412.97
2005	2,230,891.94	2,085,985.08

BOROUGH OF ESSEX FELS  
COUNTY OF ESSEX, NEW JERSEY

**DEBT STATEMENT AS OF DECEMBER 31, 2009**

Gross Debt

General Improvements:		
School District Other than Regional School District:		
Bonds Issued and Outstanding	\$1,080,000.00	
Regional School District:		
Bonds Issued and Outstanding	<u>2,888,979.80</u>	\$ 3,968,979.80
Municipal Debt:		
General Improvements:		
Serial Bonds Issued	2,855,000.00	
Bond Anticipation Notes Issued	<u>1,013,000.00</u>	3,868,000.00
Water Utility:		
General Improvements:		
Bond Anticipation Notes Issued	1,051,000.00	
Bond Anticipation Notes Authorized but Not Issued	<u>1,168,750.00</u>	<u>2,219,750.00</u>
Total Gross Debt		10,056,729.80
<u>Statutory Deductions</u>		
School District:		
Maximum (4% of Average Equalized Valuation \$34,780,100.52)	3,968,979.80	
Water Debt:		
Self-Liquidating	<u>1,928,433.60</u>	<u>5,897,413.40</u>
Total Deductions		<u>4,159,316.40</u>
Statutory Net Debt		<u>\$ 4,159,316.40</u>
Average Equalized Valuation of Real Property for 2007-2009		<u>\$869,502,538.00</u>
Net Debt Percentage (Statutory Debt Limit 3 ½%)		<u>0.477%</u>

**REMAINING STATUTORY BORROWING POWER**

3 1/2% of Equalized Valuation Basis	\$30,432,588.83
Net Debt	<u>4,159,316.40</u>
Remaining Borrowing Power December 31, 2009	<u>\$26,273,272.43</u>

Gross Debt is the total financial obligation of the Municipality and its subdivisions. Statutory deductions determine the Borrowing Power and Statutory Net Debt under the laws of the State of New Jersey.



BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

**UNDERLYING DEBT - DECEMBER 31, 2009**

County of Essex	\$ 402,706,403.95
Essex County Utilities Authority: Guaranteed Project Bonds and Notes	89,715,000.00
Essex County Improvement Authority: Guarantee of Bonds and Notes Pursuant to N.J.S.A. 40:37A-80	<u>641,170,000.00</u>
*Gross Debt December 31, 2009	<u>\$1,133,591,403.95</u>
Apportionment to Borough of Essex Fells	<u>\$10,036,068.87</u>
Basis of Debt Apportionment: Ratio of Equalized Valuation: Borough of Essex Fells - 2009	<u>\$866,846,814.00</u>
Total Essex County - 2009	<u>\$97,911,850,661.00</u>
Ratio of Borough of Essex Fells	<u>0.8853%</u>

\*Includes both the Essex County Improvement Authority Guarantee of Bonds and Bonds Issued and Bonds Authorized but Not Issued - Capital Projects for County Colleges.

**GROSS DEBT COMPARED WITH TRUE VALUE**

	<u>Municipal Debt</u>	<u>Municipal Debt Including Apportioned Underlying Debt</u>
Gross Debt as of December 31, 2009	<u>\$4,159,316.40</u>	<u>\$14,195,385.27</u>
Aggregate Fair Value for 2009 - All Taxable Property - Assessed Valuation	\$815,419,133.00	
Amount Added for Equalization: Real Property Assessed at 94.11% of True Value	<u>51,427,681.00</u>	
Total - With Real Property at True Value - 2009	<u>\$866,846,814.00</u>	
Gross Debt as a Percentage of True Value	<u>0.480%</u>	<u>1.637%</u>

**BOROUGH FINANCIAL SCHEDULES**

**Revenues and Expenditures**

The Current Fund is used to account for the resources and expenditures for governmental operations of a general nature, including debt service on general purpose bonds and notes. The fund balance in the Current Fund and the Water Utility Fund at the end of each fiscal year is comprised of cash, investments and certain receivables. Under State law, only the amount of Fund balance held in cash or quick assets may be included as anticipated surplus in the succeeding fiscal year's budget, unless the Director of the Division of Local Government Services gives written consent to an exception.

<u>Year</u>	<u>Municipal Budget</u>		<u>Water Utility Budget</u>	
	<u>Balance December 31</u>	<u>Utilized in Budgets of Succeeding Year</u>	<u>Balance December 31</u>	<u>Utilized in Budgets of Succeeding Year</u>
2009	\$ 229,093.00	\$ 163,343.00	\$ 155,452.04	\$ 130,000.00
2008	526,236.86	512,500.00	106,538.81	81,867.00
2007	528,439.19	380,000.00	100,319.72	31,867.00
2006	899,711.77	800,000.00	511,589.44	416,000.00
2005	759,413.60	687,400.00	702,001.62	296,040.00

**Special Emergency and Emergency Appropriations Deferred to Subsequent Years**

<u>Year</u>	<u>Municipal Budget</u>		<u>Water Utility Budget</u>
	<u>Special Emergency</u>	<u>Emergency Appropriation</u>	<u>Emergency Appropriation</u>
2009	\$ None	\$ 45,000.00	\$ None
2008	None	None	None
2007	None	60,000.00	None
2006	None	37,500.00	80,000.00
2005	None	50,000.00	125,000.00

In addition to emergency appropriations there are other classes of expenditures not contemplated in the adopted budget which are treated in the same manner as emergency appropriations.

**Other Expenditures Deferred to the following Year**

<u>Year</u>	<u>Municipal Budget</u>		<u>Water Utility Budget</u>
	<u>Over- expenditure of Appropriations</u>	<u>Over- expenditure of Reserves</u>	<u>Over- expenditure of Appropriations</u>
2009	\$ None	\$ None	\$ None
2008	None	None	None
2007	37,276.71	13,479.72	68,452.07
2006	None	None	None
2005	None	None	None

## TAX MATTERS

### Exclusion of Interest on the Bonds from Gross Income for Federal Income Tax Purposes

The Internal Revenue Code of 1986, as amended (the "Code"), imposes certain requirements which must be met on a continuing basis subsequent to the issuance of the Bonds in order to assure that interest on the Bonds will be excluded from gross income for purposes of Federal income taxation under Section 103 of the Code. Failure of the Borough to comply with such requirements may cause interest on the Bonds to be included in gross income for Federal income tax purposes, retroactive to the date of the issuance of the Bonds. The Borough has covenanted to comply with the provisions of the Code applicable to the Bonds and has covenanted not to take any action or permit any action that would cause the interest on the Bonds to be included in gross income under Section 103 of the Code or cause interest on the Bonds to be treated as an item of tax preference under Section 57 of the Code.

Assuming the Borough observes its covenants with respect to continuing compliance with the Code, Gibbons P.C., Bond Counsel to the Borough, is of the opinion that, under existing law, interest on the Bonds is excluded from the gross income of the owners of the Bonds for Federal income tax purposes pursuant to Section 103 of the Code and interest on the Bonds is not an item of tax preference under Section 57 of the Code for purposes of computing the alternative minimum tax.

### Additional Federal Income Tax Consequences

In the case of certain corporate holders of the Bonds, interest on the Bonds will be included in the calculation of the alternative minimum tax as a result of the inclusion of interest on the Bonds in "adjusted current earnings" of certain corporations.

Prospective purchasers of the Bonds should be aware that ownership of, accrual of, receipt of, interest on, or disposition of, tax-exempt obligations, such as the Bonds, may have additional Federal income tax consequences for certain taxpayers, including without limitation, taxpayers eligible for the earned income credit, recipients of certain Social Security and certain Railroad Retirement benefits, taxpayers that may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations, financial institutions, property and casualty companies, foreign corporations and certain S corporations.

Bond Counsel expresses no opinion regarding any Federal tax consequences other than its opinion with regard to the exclusion of interest on the Bonds from gross income pursuant to Section 103 of the Code and interest on the Bonds not constituting an item of tax preference under Section 57 of the Code. Prospective purchasers of the Bonds should consult their tax advisors with respect to all other tax consequences (including, but not limited to, those listed above) of holding the Bonds.

### State Taxation

Bond Counsel is of the opinion that, under existing law, interest on the Bonds and net gains from the sale of the Bonds are exempt from the tax imposed by the New Jersey Gross Income Tax Act.

### Miscellaneous

Amendments to federal and state tax laws are proposed from time to time and could be enacted, and court decisions and administrative interpretations may be rendered, in the future. There can be no assurance that any such future amendments or actions will not adversely affect the value of the Bonds, the exclusion of interest on the Bonds from gross income, alternative minimum taxable income, state taxable income, or any combination from the date of issuance of the Bonds or any other date, or that such changes will not result in other adverse federal or state tax consequences.

**THE ABOVE SUMMARY OF POSSIBLE TAX CONSEQUENCES IS NOT EXHAUSTIVE OR COMPLETE. ALL PURCHASERS OF THE BONDS SHOULD CONSULT THEIR TAX ADVISORS REGARDING THE POSSIBLE FEDERAL, STATE AND LOCAL INCOME TAX CONSEQUENCES OF OWNERSHIP OF THE BONDS.**

## **LITIGATION**

To the knowledge of the Borough Attorney, Martin Murphy, Esq., Riverdale, New Jersey, there is no litigation of any nature now pending or threatened, restraining or enjoining the issuance or the delivery of the Bonds, or the levy or the collection of any taxes to pay the principal of or the interest on the Bonds, or in any manner questioning the authority or the proceedings for the issuance of the Bonds or for the levy or the collection of taxes, or contesting the corporate existence or the boundaries of the Borough or the title of any of the present officers. Moreover, to the knowledge of the Borough Attorney, no litigation is presently pending or threatened that, in the opinion of the Borough Attorney, would have a material adverse impact on the financial condition of the Borough if adversely decided. A certificate to such effect will be executed by the Borough's Attorney and delivered to the Underwriter at the closing.

## **LEGALITY FOR INVESTMENT**

The State and all public officers, municipalities, counties, political subdivisions and public bodies, and agencies thereof, all banks, bankers, trust companies, savings and loan associations, savings banks and institutional, building and loan associations, investment companies, and other persons carrying on banking business, all insurance companies, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any obligations of the Borough, including the Bonds and such Bonds are authorized security for any and all public deposits.

## **MUNICIPAL BANKRUPTCY**

The undertakings of the Borough should be considered with reference to Chapter IX of the Bankruptcy Act, 11 U.S.C. Section 901, et seq., as amended by Public Law 94-260, approved April 8, 1976, and as further amended on November 6, 1978 by the Bankruptcy Reform Act of 1978, effective October 1, 1979, as further amended by Public Law 100-597, effective November 3, 1988, the Bankruptcy Reform Act of 1994, effective October 22, 1994 and other bankruptcy laws affecting creditor's rights and municipalities in general. The amendments of P.L. 94-260 replace former Chapter IX and permit the State or any political subdivision, public agency, or instrumentality that is insolvent or unable to meet its debts to file a petition in a court of bankruptcy for the purpose of effecting a plan to adjust its debts; directs such a petitioner to file with the court a list of petitioner's creditors; provides that a petition filed under this chapter shall operate as a stay of the commencement or continuation of any judicial or other proceeding against the petitioner; grants priority to debt owed for services or material actually provided within three months of the filing of the petition; directs a petitioner to file a plan for the adjustment of its debts; and provides that the plan must be accepted in writing by or on behalf of creditors holding at least two-thirds in amount or more than one-half in number of the listed creditors. The 1976 Amendments were incorporated into the Bankruptcy Reform Act of 1978 with only minor changes.

Reference should also be made to N.J.S.A. 52:27-40 et seq. which provides that a municipality has the power to file a petition in bankruptcy provided the approval of the Municipal Finance Commission has been obtained. The powers of the Municipal Finance Commission have been vested in the Local Finance Board. The Bankruptcy Act specifically provides that Chapter IX does not limit or impair the power of a state to control, by legislation or otherwise, the procedures that a municipality must follow in order to take advantage of the provisions of the Bankruptcy Act.

## **SECONDARY MARKET DISCLOSURE**

The Securities and Exchange Commission (the "SEC") pursuant to the Securities Exchange Act of 1934, as amended and supplemented (the "Securities Exchange Act") has adopted amendments to its Rule 15c2-12 ("Rule 15c2-12") effective July 3, 1995 which generally prohibits a broker, dealer, or municipal securities dealer ("Participating Underwriter") from purchasing or selling municipal securities, such as the Bonds, unless the Participating Underwriter has reasonably determined that an issuer of municipal securities or an obligated person has undertaken in a written agreement or contract for the benefit of holders of such securities to provide certain annual financial information and event notices to the Municipal Securities Rulemaking Board ("MSRB") (the "Continuing Disclosure Requirements").

On the date of delivery of the Bonds, the Borough will enter into a Continuing Disclosure Certificate ("the Continuing Disclosure Certificate") containing the Continuing Disclosure Requirements for the benefit of the beneficial holders of the Bonds pursuant to which the Borough will agree to comply on a continuing basis with the Continuing Disclosure Requirements of Rule 15c2-12. Specifically, the Borough will covenant in the Continuing Disclosure Certificate to provide upon request to any person certain financial information and operating data (the "Annual Information") and notices of the occurrence of certain enumerated events (each, a "Disclosure Event").

The Annual Information and notices of Disclosure Events can be obtained from Richard Mondelli, Chief Financial Officer, Borough of Essex Fells, Municipal Building, 255 Roseland Avenue, Essex Fells, New Jersey 07021, (973) 226-3400.

The Borough has never failed to comply, in all material respects, with any previous undertakings to provide continuing disclosure compliance with the requirements of Rule 15c2-12.

## **PREPARATION OF OFFICIAL STATEMENT**

The Borough hereby states that the descriptions and statements herein, including financial statements, are true and correct in all material respects and it will confirm to the Underwriter by a certificate signed by the Chief Financial Officer, that to his knowledge such descriptions and statements, as of the date of this Official Statement, are true and correct in all material respects and do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements herein, in light of the circumstances under which they were made, not misleading.

Samuel Klein and Company, Newark, New Jersey, assisted in the preparation of information contained in this Official Statement and takes responsibility for the audited financial statements to the extent specified in their Independent Auditor's Report.

All other information has been obtained from sources which the Borough considers to be reliable and they make no warranty, guaranty or other representation with respect to the accuracy and completeness of such information.

Gibbons P.C., has not participated in the preparation of the financial or statistical information contained in this Official Statement, nor have they verified the accuracy, completeness or fairness thereof, and, accordingly, express no opinion with respect thereto.

## **UNDERWRITING**

The Bonds have been purchased from the Borough at a public sale by \_\_\_\_\_ (the "Underwriter") at a purchase price of \$\_\_\_\_\_ (consisting of the par amount of Bonds plus a net original issue premium of \$\_\_\_\_\_). The Underwriter has purchased the Bonds in accordance with the Notice of Sale.

The Bonds are being offered for sale at the yields or prices set forth on the front cover of this Official Statement.

## **RATING**

Moody's Investors Service, Inc. ("Moody's") has assigned the Bonds a rating of "Aa2" (negative outlook).

An explanation of the significance of such credit rating may be obtained from Moody's at 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. There is no assurance that such credit rating will continue for any period of time or that such rating will not be revised or withdrawn. Any such revision or withdrawal of such credit rating may have an adverse affect on the market price of the Bonds.

## **ADDITIONAL INFORMATION**

Inquiries regarding this Official Statement may be directed to the Chief Financial Officer, Borough of Essex Fells, Municipal Building, 255 Roseland Avenue, Essex Fells, New Jersey 07021, Telephone (973) 226-3400.

## **MISCELLANEOUS**

This Official Statement is not to be construed as a contract or agreement between the Borough and the purchasers or holders of any of the Bonds. Any statements made in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended merely as opinions and not as representations of fact. The information and expressions of opinion contained herein are subject to change without notice and neither the delivery of this Official Statement nor any sale of Bonds made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the Borough since the date hereof.

## **BOROUGH OF ESSEX FELLS**

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**Richard Mondelli,  
Chief Financial Officer**

**Dated: February \_\_, 2011**

**APPENDIX A**  
**BOROUGH OF ESSEX FELLS**  
**AUDITOR'S REPORT AND FINANCIAL STATEMENTS**

**SAMUEL KLEIN AND COMPANY**  
**CERTIFIED PUBLIC ACCOUNTANTS**

550 Broad Street  
Newark, New Jersey 07102-4517  
Phone (973) 624-6100  
Fax (973) 624-6101

36 West Main Street, Suite 301  
Freehold, New Jersey 07728-2291  
Phone (732) 780-2600  
Fax (732) 780-1030

**INDEPENDENT AUDITOR'S REPORT**

We have audited the accompanying statutory basis financial statements of the various funds of the

**BOROUGH OF ESSEX FELLS**  
**COUNTY OF ESSEX**

as of and for the years ended December 31, 2009, 2008, 2007, 2006 and 2005. These statutory basis financial statements are the responsibility of the municipality's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; and the standards applicable to financial audits contained in *Government Auditing Standards*; issued by the Comptroller General of the United States; and audit requirements as prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

These statutory basis financial statements have been prepared in conformity with accounting practices prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey which are designed primarily for determining compliance with legal provisions and budgetary restrictions and as a means of reporting on the stewardship of public officials with respect to public funds. These practices differ in certain respects, which in some instances may be material, from generally accepted accounting principles in the United States of America applicable to local government units. The more significant of these practices are described in Note 1 to the financial statements.

These financial statements were prepared for the purpose of inclusion in an official statement for the issuance of General Obligation Bonds, Series 2011 consisting of General Improvement Bonds, Series 2011 and Water Utility Bonds, Series 2011 of the Borough of Essex Fells and were abstracted from audit reports issued under the periods referred to above as dated August 24, 2010, September 3, 2009, July 3, 2008, July 16, 2007 and April 6, 2006, respectively.



The following funds and account groups which were required to be the subject of our audit for the statutory basis financial statements of the Borough of Essex Fells are not required for this purpose and are not included in these special purpose financial statements:

Public Assistance Trust Fund  
Fixed Asset Group of Accounts

The omission of these funds and account groups from the statements presented herein, do not materially affect the financial position of the Borough.

In our opinion, because of the Municipality's policy to prepare its financial statements on the basis of accounting discussed in the third paragraph of this report, the financial statements referred to above do not present fairly, in conformity with accounting principles generally accepted in the United States, the financial position of the Borough of Essex Fells as of December 31, 2009, 2008, 2007, 2006 and 2005 or the results of its operations for the years then ended.

However, in our opinion, the statutory basis financial statements referred to above present fairly, in all material respects, the financial position of the Borough of Essex Fells in the County of Essex, as of December 31, 2009, 2008, 2007, 2006 and 2005, and the results of operations of such funds for the years then ended, in accordance with accounting principles and practices prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey and described in Note 1 to the financial statements.



SAMUEL KLEIN AND COMPANY  
CERTIFIED PUBLIC ACCOUNTANTS

JOSEPH J. FACCONI, RMA, PA

Newark, New Jersey  
August 24, 2010

BOROUGH OF ESSEX FELS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE BALANCE SHEET - CURRENT FUND

Sheet #1

<u>ASSETS AND DEFERRED CHARGES</u>	Balance <u>Dec. 31, 2009</u>	Balance <u>Dec. 31, 2008</u>	Balance <u>Dec. 31, 2007</u>	Balance <u>Dec. 31, 2006</u>	Balance <u>Dec. 31, 2005</u>
<u>Regular Fund</u>					
Cash - Checking Account	\$ 981,429.36	\$ 1,198,449.11	\$ 1,140,661.21	\$ 1,707,517.28	\$ 1,957,990.21
Cash - New Jersey Cash Management Fund	73,358.04	72,800.06	71,039.29	67,537.25	64,348.75
	<u>1,054,787.40</u>	<u>1,271,249.17</u>	<u>1,211,700.50</u>	<u>1,775,054.53</u>	<u>2,022,338.96</u>
Receivables and Other Assets with Full Reserves:					
Taxes Receivable	97,259.09	166,314.04	283,195.13	101,828.66	103,975.91
Property Acquired for Taxes - Assessed Valuation	1,900.00	1,900.00	1,900.00	1,900.00	1,900.00
Revenue Accounts Receivable	1,873.74	2,130.08	7,040.22	13,000.08	6,250.62
Other Accounts Receivable	7,607.28	7,607.28	7,164.48	231,444.08	2,218.78
Interfunds Receivable	147,233.52	303,647.81	504,007.78	348,172.82	302,177.05
	<u>255,873.63</u>	<u>481,599.21</u>	<u>803,307.61</u>	<u>348,172.82</u>	<u>416,522.36</u>
Deferred Charges	45,000.00	13,479.42	110,756.13	37,500.00	50,000.00
	<u>1,355,661.03</u>	<u>1,766,327.80</u>	<u>2,125,764.24</u>	<u>2,160,727.35</u>	<u>2,488,861.32</u>
<u>Federal and State Grant Fund</u>					
State Grants Receivable	218,490.83	346,169.46	615,423.16	405,962.56	473,080.12
Interfunds Receivable	16,374.07	17,036.42	16,317.24	405,962.56	473,080.12
	<u>234,864.90</u>	<u>363,205.88</u>	<u>631,740.40</u>	<u>405,962.56</u>	<u>473,080.12</u>
	<u>\$ 1,590,525.93</u>	<u>\$ 2,129,533.68</u>	<u>\$ 2,757,504.64</u>	<u>\$ 2,566,689.91</u>	<u>\$ 2,961,941.44</u>

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE BALANCE SHEET - CURRENT FUND

Sheet #2

<u>LIABILITIES, RESERVES AND FUND BALANCE</u>	Balance <u>Dec. 31, 2009</u>	Balance <u>Dec. 31, 2008</u>	Balance <u>Dec. 31, 2007</u>	Balance <u>Dec. 31, 2006</u>	Balance <u>Dec. 31, 2005</u>
<u>Regular Fund</u>					
Expenditure Reserves:					
Appropriation Reserves:					
Unencumbered	\$ 67,190.08	\$ 134,499.85	\$ 162,957.72	\$ 161,500.03	\$ 109,723.98
Encumbered	310,233.77	80,426.91	120,272.12		
Due to State of New Jersey - Tax Deductions	316.76	316.76	316.76	316.76	316.76
Due to State of New Jersey:					
Department of Community Affairs	1,188.00	1,330.00	1,318.00	1,054.00	1,140.00
Marriage License Fees	25.00	25.00	50.00	50.00	25.00
Electrical Inspection Fees Payable		97.20	3,165.20	24,304.60	21,462.60
Plumbing Inspection Fees Payable		240.60	1,506.00	16,437.80	17,329.00
Interfunds Payable	280,018.77	330,831.78	133,883.19		353.34
Tax Overpayments	72,500.04	54,704.97	14,131.37		43,204.84
Reserve for Tax Appeals	50,000.00				
County Taxes Payable	3,753.11		23,300.66		
Accounts Payable	16,234.41				
Prepaid Taxes	67,236.96	67,235.21	58,326.76	169,579.12	220,769.39
Unallocated Collector's Receipt			10,189.21		
Reserve for Sale of Municipal Assets	1,997.50	88,783.45	264,600.45	539,600.45	898,600.45
	<u>870,694.40</u>	<u>758,491.73</u>	<u>794,017.44</u>	<u>912,842.76</u>	<u>1,312,925.36</u>
Reserve for Receivables	255,873.63	481,599.21	803,307.61	348,172.82	416,522.36
Fund Balance	229,093.00	526,236.86	528,439.19	899,711.77	759,413.60
	<u>1,355,661.03</u>	<u>1,766,327.80</u>	<u>2,125,764.24</u>	<u>2,160,727.35</u>	<u>2,488,861.32</u>
 <u>Federal and State Grant Fund</u>					
Due to Current Fund	62,478.39	189,154.83	227,086.70	222,245.24	301,981.55
Reserve for Grants	159,602.77	159,738.76	389,080.74	178,941.81	165,851.47
Reserve for Revenue - Unappropriated:					
State Grants	12,783.74	14,312.29	15,572.96	4,775.51	5,247.10
	<u>234,864.90</u>	<u>363,205.88</u>	<u>631,740.40</u>	<u>405,962.56</u>	<u>473,080.12</u>
	<u>\$ 1,590,525.93</u>	<u>\$ 2,129,533.68</u>	<u>\$ 2,757,504.64</u>	<u>\$ 2,566,689.91</u>	<u>\$ 2,961,941.44</u>

See accompanying notes to financial statements.

**BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY**

**COMPARATIVE STATEMENTS OF OPERATIONS AND CHANGE IN FUND BALANCE - CURRENT FUND**

	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
<b><u>Revenue and Other Income Realized</u></b>					
Fund Balance Utilized	\$ 512,500.00	\$ 380,000.00	\$ 800,000.00	\$ 687,900.00	\$ 963,000.00
Miscellaneous Revenue Anticipated	1,026,969.64	1,200,961.20	1,539,753.36	1,737,114.60	1,334,867.51
Receipts from Delinquent Taxes	147,556.45	283,195.13	101,766.59	103,973.83	41,153.73
Receipts from Current Taxes	12,909,486.79	13,015,915.28	11,939,514.90	11,873,132.52	11,205,075.77
Interfunds Receivable Liquidated	56,414.29	70,359.97		70,732.97	
Nonbudget Revenue	19,020.43	31,277.91	77,336.74	13,351.75	23,109.72
Other Credits to Income	92,354.47	379,557.67	56,010.43	111,402.16	166,000.38
	<u>14,764,302.07</u>	<u>15,361,267.16</u>	<u>14,514,382.02</u>	<u>14,597,607.83</u>	<u>13,733,207.11</u>
<b><u>Expenditures</u></b>					
Budget Expenditures:					
Operations:					
Salaries and Wages	1,803,783.00	1,797,543.00	1,708,640.00	1,656,928.00	1,707,814.00
Other Expenses	1,875,266.29	1,606,206.22	1,579,758.22	1,577,323.23	1,276,089.72
Capital Improvements	400,000.00	648,817.00	493,000.00	378,300.00	335,442.00
Debt Service	371,333.31	369,927.80	475,214.67	545,228.16	461,329.18
Deferred Charges and Statutory Expenditures	15,656.13	145,430.89	91,690.16	230,409.00	236,257.87
	<u>4,466,038.73</u>	<u>4,567,924.91</u>	<u>4,348,303.05</u>	<u>4,388,188.39</u>	<u>4,016,932.77</u>
Refunds of Prior Year Revenue		2,952.75	2,663.45	7,630.46	
Interfunds Receivable Established			272,563.70		231,975.12
Electrical Inspection Fees Payable					133.40
Prior Year Payroll Taxes Cancelled		19,085.14			28,688.20
County Taxes	3,369,600.54	3,594,827.33	3,476,629.34	3,546,000.57	3,335,231.99
Local School District Tax	3,873,664.50	3,718,221.50	3,497,408.50	3,244,080.50	3,066,592.50
Regional School District Tax	2,836,981.56	3,080,457.86	2,561,207.36	2,621,008.12	2,503,281.08
Other Debits to Income	47,660.60		24,155.92	1.62	
	<u>14,593,945.93</u>	<u>14,983,469.49</u>	<u>14,182,931.32</u>	<u>13,806,909.66</u>	<u>13,182,835.06</u>
Excess in Revenue	170,356.14	377,797.67	331,450.70	790,698.17	550,372.05
Adjustments to Income before Fund Balance:					
Expenditures Included Above Which are by Statute Deferred Charges to Budget of Succeeding Years					
	45,000.00		97,276.71	37,500.00	50,000.00
Statutory Excess to Fund Balance	215,356.14	377,797.67	428,727.41	828,198.17	600,372.05
<b><u>Fund Balance</u></b>					
Balance January 1	526,236.86	528,439.19	899,711.77	759,413.60	1,122,041.55
	<u>741,593.00</u>	<u>906,236.86</u>	<u>1,328,439.18</u>	<u>1,587,611.77</u>	<u>1,722,413.60</u>
Decreased by:					
Utilized as Anticipated Revenue	512,500.00	380,000.00	800,000.00	687,900.00	963,000.00
Balance December 31	<u>\$ 229,093.00</u>	<u>\$ 526,236.86</u>	<u>\$ 528,439.18</u>	<u>\$ 899,711.77</u>	<u>\$ 759,413.60</u>

See accompanying notes to financial statements.

BOROUGH OF ESSEX FELS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE STATEMENT OF MISCELLANEOUS REVENUE REALIZED - CURRENT FUND

Sheet #1

	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Licenses:					
Alcoholic Beverages	\$ 795.20	\$ 496.00	\$ 496.00	\$ 496.00	\$ 496.00
Other					15.00
Fees and Permits	17,535.00	10,293.00	15,924.00	20,781.50	30,930.00
Fines and Costs:					
Municipal Court	36,297.64	43,315.90	44,337.78	52,046.56	48,123.93
Interest and Costs on Taxes	37,003.90	37,117.22	37,341.22	24,740.55	17,902.90
Interest on Investments and Deposits	5,549.44	25,139.70	65,813.85	107,445.76	61,762.10
Police Alarm Fees	5,000.00	5,150.00	5,100.00	5,540.00	6,175.00
Rental of Borough Hall	25,127.00	25,127.00	25,127.00	25,127.00	24,161.00
Municipal Services to and Rent Use of Borough Property and Facilities by Water Utility	44,794.00	44,794.00	159,122.00	159,122.00	153,002.00
Rent and Use of Borough Property and Facilities by Water Utility			159,676.00	159,676.00	153,535.00
Payment for Municipal Purpose Taxes Lost Through Use of Property for Essex Fells Water Utility	65,873.00	65,873.00	65,873.00	65,873.00	63,349.86
Municipal Services for Police Monitoring:					
Air Stripper for Water Utility			15,627.00	15,627.00	15,026.00
Building Rental - United States Post Office	42,300.00	42,300.00	42,300.00	38,775.00	41,775.00
Rent of Municipal Property for Air Stripper	21,355.00	21,355.00	21,355.00	21,355.00	20,534.00
Legislative Initiative Municipal Block Grant			9,359.00	9,359.00	9,359.00
Energy Receipts Tax	234,092.00	243,846.00	234,705.00	223,208.00	213,202.00
Supplemental Energy Receipts Tax			9,141.00	9,141.00	9,141.00
Net CMPTRA Allocation			4,895.00	11,497.00	21,503.00
Municipal Homeland Security Police Assistance			25,000.00	25,000.00	25,000.00
Uniform Construction Code Fees	42,021.00	52,449.00	80,115.00	58,367.00	57,772.00
Sewer Service Fees	17,118.00	27,423.00	5,670.00	6,885.00	12,960.00
Alcohol Education and Rehabilitation Fund	620.09	374.82		825.00	794.97
Body Armor Grant	1,272.65	1,370.46	1,151.11	1,209.00	1,236.00
Body Armor Grant - Unappropriated					1,231.00
Child Passenger Safety Grant				5,000.00	5,000.00
Clean Communities Program	4,000.00	4,000.00		4,000.00	4,000.00
Clean Communities Program - Unappropriated		4,000.00			
Click It or Ticket	4,000.00	4,000.00		5,000.00	4,000.00
Click It or Ticket - Unappropriated					4,100.00
Drunk Driving Enforcement Fund		3,803.93		1,657.23	2,268.75

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE STATEMENT OF MISCELLANEOUS REVENUE REALIZED - CURRENT FUND

Sheet #2

	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Municipal Alliance on Alcoholism and Drug Abuse	\$ 14,000.00	\$ 22,000.00	\$ 21,000.00	\$ 22,000.00	\$ 20,000.00
New Jersey Transportation Trust Fund Authority Act		192,000.00	212,000.00	125,000.00	125,000.00
Obey the Signs or Pay the Fines				4,000.00	
Recycling Tonnage Grant				4,039.00	
Recycling Tonnage Grant - Unappropriated	5,719.55	1,719.22	3,624.40		4,690.00
Storm Water Grant				150,000.00	1,705.00
Storm Water Grant - Unappropriated				6,822.00	5,117.00
You Drink, You Drive ,You Lose				5,000.00	
Highway Safety Grant	2,700.00				
Over the Limit Under Arrest	6,000.00				
Reserve to Pay Debt	25,852.72	4,876.84			
General Capital Fund Balance	1,435.00	12,320.11			
Due from Payroll Account	50,000.00				
Sewer Connection Fees	177,725.00				
Due from Water Utility - Operating	30,000.00				
Due from Water Utility - Capital	20,000.00				
Due from State and Federal Grants		130,000.00			
Sale of Municipal Assets	88,783.45	175,817.00	275,000.00	362,500.00	170,000.00
	<u>\$1,026,969.64</u>	<u>\$1,200,961.20</u>	<u>\$1,539,753.36</u>	<u>\$1,737,114.60</u>	<u>\$1,334,867.51</u>

See accompanying notes to financial statements.

BOROUGH OF ESSEX FIELDS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE STATEMENT OF BUDGET APPROPRIATIONS - CURRENT FUND

	Balance <u>Dec. 31, 2009</u>	Balance <u>Dec. 31, 2008</u>	Balance <u>Dec. 31, 2007</u>	Balance <u>Dec. 31, 2006</u>	Balance <u>Dec. 31, 2005</u>
<u>Appropriations</u>					
Operations:					
General Government	\$ 874,257.00	\$ 805,522.00	\$ 860,740.71	\$ 353,992.00	\$ 297,904.00
Public Safety	1,543,163.00	1,541,030.00	1,460,305.00	1,370,176.00	1,455,705.00
Streets and Roads	170,048.00	158,947.00	180,835.00	205,802.00	157,671.00
Sanitation	19,734.00	9,614.00	17,214.00	7,564.00	8,584.00
Health and Welfare	14,117.00	16,264.00	11,779.00	10,845.00	9,767.00
Recreation and Education	38,800.00	30,150.00	33,000.00	16,192.00	20,762.00
Uniform Construction Code Official	35,862.00	35,091.00	33,039.00	33,584.00	23,120.00
Unclassified	145,300.00	146,831.27	119,000.00	122,400.00	107,035.00
Other Operations	468,345.00	354,200.00	343,100.00	868,944.00	885,152.00
Additional Appropriations Offset by Revenue	15,000.00	15,834.00	15,225.00	14,644.00	14,645.00
Contingent			1,000.00	1,000.00	
	<u>3,324,626.00</u>	<u>3,113,483.27</u>	<u>3,075,237.71</u>	<u>3,005,143.00</u>	<u>2,980,345.00</u>
Capital Improvements	400,000.00	648,817.00	493,000.00	653,300.00	335,442.00
Deferred Charges	15,656.13	97,276.71	39,690.16	69,465.00	132,221.87
Public Programs Offset by Revenue	41,812.29	46,768.43	25,775.51	65,052.23	59,142.72
Statutory Expenditures:					
Contributions to:					
Public Employees' Retirement System	25,447.00	14,873.52	14,710.00		
Social Security System	51,023.00	48,154.18	52,000.00	50,000.00	48,452.00
Police and Firemen's Pension Fund	236,141.00	228,624.00	172,675.00		
Debt Service	371,333.31	369,927.80	475,214.67	545,228.16	461,329.18
	<u>\$ 4,466,038.73</u>	<u>\$ 4,567,924.91</u>	<u>\$ 4,348,303.05</u>	<u>\$ 4,388,188.39</u>	<u>\$ 4,016,932.77</u>

See accompanying notes to financial statements.

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE BALANCE SHEET - TRUST FUND

<u>ASSETS</u>	<u>Balance</u> <u>Dec. 31, 2009</u>	<u>Balance</u> <u>Dec. 31, 2008</u>	<u>Balance</u> <u>Dec. 31, 2007</u>	<u>Balance</u> <u>Dec. 31, 2006</u>	<u>Balance</u> <u>Dec. 31, 2005</u>
<u>Animal Control Fund</u>					
Cash - Checking Account	\$ 3,945.45	\$ 1,033.05	\$	\$ 41.95	\$ 50.86
Due from State of New Jersey				3.00	3.00
Due from Current Fund		20.26	20.26		
	<u>3,945.45</u>	<u>1,053.31</u>	<u>20.26</u>	<u>44.95</u>	<u>53.86</u>
<u>General Trust Fund</u>					
Cash - General Trust Checking Account	133,143.02	111,401.14	98,785.91	145,396.49	63,053.62
Cash - Statement Savings Account			15,546.45		21,746.90
Accounts Receivable	2,105.82	1,528.32		4,053.10	2,366.76
Deferred Charges				1,368.00	
Interfunds Receivable		23,432.34		663.13	2,428.68
	<u>135,248.84</u>	<u>136,361.80</u>	<u>114,332.36</u>	<u>151,480.72</u>	<u>89,595.96</u>
<u>Payroll</u>					
Cash	12,147.93	18,099.31	161,247.04	14,945.79	
Miscellaneous Receivable	18,495.72	31,945.34	20,323.02		
Interfunds Receivable	41,632.24	31,356.00	15,809.55		
Deferred Charges				1,084.98	
	<u>72,275.89</u>	<u>81,400.65</u>	<u>197,379.61</u>	<u>16,030.77</u>	
	<u>\$ 211,470.18</u>	<u>\$ 218,815.76</u>	<u>\$ 311,732.23</u>	<u>\$ 167,556.44</u>	<u>\$ 89,649.82</u>
<u>LIABILITIES AND FUND BALANCES</u>					
<u>Animal Control Fund</u>					
Cash Deficit	\$	\$	\$ 19.06	\$	\$
Due to Current Fund	3.60	1.20	1.20		
Reserve for Animal Control Trust Fund Expenditures	3,941.85	1,052.11		44.95	53.86
	<u>3,945.45</u>	<u>1,053.31</u>	<u>20.26</u>	<u>44.95</u>	<u>53.86</u>
<u>General Trust Fund</u>					
Interfunds Payable	57,175.52	49,909.43	45,885.51	10,695.75	145.50
Accounts Payable	745.00	745.00	785.00	3,609.00	1,636.00
Due to State of New Jersey					3,503.09
Reserves for:					
State Unemployment Compensation Insurance Fund	13,947.43	13,842.57	13,460.51	17,194.79	14,527.56
Law Enforcement Trust Fund	12,043.68	735.10	725.70	1,195.74	1,477.74
Reserve for Expenditures	51,337.21	71,129.70	53,475.64	118,785.44	68,306.07
	<u>135,248.84</u>	<u>136,361.80</u>	<u>114,332.36</u>	<u>151,480.72</u>	<u>89,595.96</u>
<u>Payroll</u>					
Liabilities and Fund Balance:					
Payroll Deductions Payable	16,132.77	20,349.94	21,569.65	15,367.54	
Interfunds Payable	56,143.12	61,050.71	175,809.96	663.23	
	<u>72,275.89</u>	<u>81,400.65</u>	<u>197,379.61</u>	<u>16,030.77</u>	
	<u>\$ 211,470.18</u>	<u>\$ 218,815.76</u>	<u>\$ 311,732.23</u>	<u>\$ 167,556.44</u>	<u>\$ 89,649.82</u>

See accompanying notes to financial statements.



BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE BALANCE SHEET - GENERAL CAPITAL FUND

<u>ASSETS AND DEFERRED CHARGES</u>	<u>Balance</u> <u>Dec. 31, 2009</u>	<u>Balance</u> <u>Dec. 31, 2008</u>	<u>Balance</u> <u>Dec. 31, 2007</u>	<u>Balance</u> <u>Dec. 31, 2006</u>	<u>Balance</u> <u>Dec. 31, 2005</u>
Cash	\$ 520,459.59	\$ 309,781.83	\$ 57.10	\$ 90,767.03	\$
Interfunds Receivable	280,018.77	307,379.18	133,862.93		
Deferred Charges to Future Taxation:					
Funded	2,855,000.00	3,085,000.00	3,310,000.00	3,440,000.00	3,626,000.00
Unfunded	1,013,000.00	1,013,000.00	1,013,000.00	1,047,500.00	1,147,500.00
State of New Jersey Grant Receivable	360,888.01				
	<u>\$ 5,029,366.37</u>	<u>\$ 4,715,161.01</u>	<u>\$ 4,456,920.03</u>	<u>\$ 4,578,267.03</u>	<u>\$ 4,773,500.00</u>
<u>LIABILITIES AND RESERVES</u>					
Cash Overdraft	\$	\$	\$	\$	\$ 1,522.51
Capital Improvement Fund	295,757.16	166,749.16	26,594.16	94,494.16	72,494.16
Reserve for Payment of Bond Sale Costs			31,287.62		
Reserve to Pay Debt Service		25,852.72	4,876.84		
Improvement Authorizations:					
Funded	853,487.87	419,919.27	303,136.44	222,448.10	126,278.07
Unfunded	3,204.86	3,204.86	3,204.86	9,260.36	38,924.47
Essex County Improvement Authority Loan Payable				3,440,000.00	3,626,000.00
Bond Anticipation Note	1,013,000.00	1,013,000.00	765,500.00	800,000.00	900,000.00
Fund Balance	8,916.48	1,435.00	12,320.11	12,064.41	8,280.79
Serial Bonds Payable	2,855,000.00	3,085,000.00	3,310,000.00		
	<u>\$ 5,029,366.37</u>	<u>\$ 4,715,161.01</u>	<u>\$ 4,456,920.03</u>	<u>\$ 4,578,267.03</u>	<u>\$ 4,773,500.00</u>
Bonds and Notes Authorized but Not Issued	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 247,500.00</u>	<u>\$ 247,500.00</u>	<u>\$ 247,500.00</u>

See accompanying notes to financial statements.

BOROUGH OF ESSEX FIELDS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE BALANCE SHEET - WATER UTILITY

<u>ASSETS</u>	<u>Balance</u> <u>Dec. 31, 2009</u>	<u>Balance</u> <u>Dec. 31, 2008</u>	<u>Balance</u> <u>Dec. 31, 2007</u>	<u>Balance</u> <u>Dec. 31, 2006</u>	<u>Balance</u> <u>Dec. 31, 2005</u>
<u>Operating Fund</u>					
Cash	\$ 484,229.01	\$ 433,602.60	\$ 220,988.44	\$ 507,357.12	\$ 676,865.51
Accounts Receivable			16,817.73		
Deferred Charges				80,000.00	125,000.00
Overexpenditures			68,452.07		
Grants Receivable	37,913.58	20,339.33	20,339.33	21,482.54	20,165.74
Interfunds Receivable	1,562.27	1,517.01	11,793.25	1,531.23	353.34
Receivables and Inventories with Full Reserves:					
Consumer Accounts Receivable	294,560.32	516,378.01	561,102.92	468,895.33	498,120.70
Inventories - Materials and Supplies	57,200.00	57,200.00	57,200.00	57,200.00	53,750.00
	<u>875,465.18</u>	<u>1,029,036.95</u>	<u>956,693.74</u>	<u>1,136,466.22</u>	<u>1,374,255.29</u>
<u>Capital Fund</u>					
Cash	479,486.83	630,672.05	795,208.03	742,016.24	782,240.53
Fixed Capital	9,350,248.72	9,350,248.72	8,521,977.56	8,311,977.56	8,187,978.11
Fixed Capital Authorized and Uncompleted	1,327,557.65	1,135,649.45	1,017,920.61	968,420.61	931,920.61
Interfunds Receivable	5,368.65		50,240.05		
	<u>11,162,661.85</u>	<u>11,116,570.22</u>	<u>10,385,346.25</u>	<u>10,022,414.41</u>	<u>9,902,139.25</u>
	<u>\$12,038,127.03</u>	<u>\$12,145,607.17</u>	<u>\$11,342,039.99</u>	<u>\$11,158,880.63</u>	<u>\$11,276,394.54</u>
<u>LIABILITIES, RESERVES AND FUND BALANCE</u>					
<u>Operating Fund</u>					
Interfunds Payable	\$ 34,376.74	\$ 46,464.39	\$ 147,480.11	\$	\$
Appropriation Reserves:					
Encumbered	21,560.10	22,666.61	12,559.87		
Unencumbered	283,764.57	259,920.24	74,175.49	93,047.46	114,039.70
Accounts Payable	2,874.66				
Accrued Interest on Notes	20,873.10	15,368.89	3,855.63	5,733.99	5,733.99
Water Rent Overpayments	4,803.65	4,500.00			609.28
	<u>368,252.82</u>	<u>348,920.13</u>	<u>238,071.10</u>	<u>98,781.45</u>	<u>120,382.97</u>
Reserve for Receivables and Inventory	351,760.32	573,578.01	618,302.92	526,095.33	551,870.70
Fund Balance	155,452.04	106,538.81	100,319.72	511,589.44	702,001.62
	<u>875,465.18</u>	<u>1,029,036.95</u>	<u>956,693.74</u>	<u>1,136,466.22</u>	<u>1,374,255.29</u>
<u>Capital Fund</u>					
Interfunds Payable	45.26	25,578.64		14.22	
Capital Improvement Fund	40,546.65	147,131.35	414,381.35	412,705.48	336,704.93
Improvement Authorizations:					
Funded	443,200.96	456,899.45	488,333.04	385,240.59	493,286.44
Unfunded	1,168,319.04	1,168,319.04	489,569.04	489,715.43	502,639.02
Reserve for Amortization	6,977,385.76	7,024,477.56	6,731,977.56	6,731,977.56	6,607,978.11
Deferred Reserve for Amortization	1,480,670.61	1,228,670.61	1,240,920.61	968,420.61	931,920.61
Reserve for Preliminary Engineering Expenses				1,175.87	1,175.87
Bond Anticipation Notes	1,051,000.00	1,064,000.00	987,000.00	1,000,000.00	1,000,000.00
Fund Balance	1,493.57	1,493.57	33,164.65	33,164.65	28,434.27
	<u>11,162,661.85</u>	<u>11,116,570.22</u>	<u>10,385,346.25</u>	<u>10,022,414.41</u>	<u>9,902,139.25</u>
	<u>\$12,038,127.03</u>	<u>\$12,145,607.17</u>	<u>\$11,342,039.99</u>	<u>\$11,158,880.63</u>	<u>\$11,276,394.54</u>
Bonds and Notes Authorized but Not Issued	<u>\$ 1,168,750.00</u>	<u>\$ 1,678,750.00</u>	<u>\$ 580,000.00</u>	<u>\$ 580,000.00</u>	<u>\$ 580,000.00</u>

See accompanying notes to financial statements.

BOROUGH OF ESSEX FELLS  
COUNTY OF ESSEX, NEW JERSEY

COMPARATIVE STATEMENTS OF OPERATIONS AND CHANGE IN FUND BALANCE - WATER UTILITY

	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
<u>Revenue and Other Income</u>					
Fund Balance Utilized	\$ 81,867.00	\$ 31,867.00	\$ 416,000.00	\$ 296,040.00	\$ 203,222.00
Water Rents	2,231,152.57	2,294,435.93	2,117,947.27	2,139,412.97	2,085,985.08
Miscellaneous Revenue	12,812.61	41,730.74	119,292.37	140,905.19	116,738.99
Water Capital Surplus		33,164.65			
Other Credits to Income:					
Unexpended Balance of Appropriation					
Reserves - Lapsed	195,346.05	24,614.00	32,462.28	26,059.66	41,518.43
	<u>2,521,178.23</u>	<u>2,425,812.32</u>	<u>2,685,701.92</u>	<u>2,602,417.82</u>	<u>2,447,464.50</u>
<u>Expenditures</u>					
Budget Appropriations:					
Operating	2,190,707.00	2,171,589.00	2,264,497.26	2,106,419.00	2,097,394.00
Capital Improvements	50,000.00		280,000.00	256,500.00	233,000.00
Debt Service	45,045.00	42,812.28	53,621.64	31,850.00	20,750.00
Statutory Expenditures	109,646.00	173,324.95	151,304.81	182,021.00	49,928.00
	<u>2,395,398.00</u>	<u>2,387,726.23</u>	<u>2,749,423.71</u>	<u>2,576,790.00</u>	<u>2,401,072.00</u>
Excess (Deficit) in Revenue	125,780.23	38,086.09	(63,721.79)	25,627.82	46,392.50
Adjustments to Income before Fund Balance:					
Expenditures Included Above Which are by					
Statute Deferred Charges to Budget of					
Succeeding Year			68,452.07	80,000.00	125,000.00
			<u>68,452.07</u>	<u>80,000.00</u>	<u>125,000.00</u>
Statutory Excess to Fund Balance	125,780.23	38,086.09	4,730.28	105,627.82	171,392.50
<u>Fund Balance</u>					
Balance January 1	106,538.81	100,319.72	511,589.44	702,001.62	733,831.12
	<u>232,319.04</u>	<u>138,405.81</u>	<u>516,319.72</u>	<u>807,629.44</u>	<u>905,223.62</u>
Decreased by:					
Amount Utilized in Operating Budget	81,867.00	31,867.00	416,000.00	296,040.00	203,222.00
	<u>81,867.00</u>	<u>31,867.00</u>	<u>416,000.00</u>	<u>296,040.00</u>	<u>203,222.00</u>
Balance December 31	<u>\$ 150,452.04</u>	<u>\$ 106,538.81</u>	<u>\$ 100,319.72</u>	<u>\$ 511,589.44</u>	<u>\$ 702,001.62</u>

See accompanying notes to financial statements.

**NOTES TO FINANCIAL STATEMENTS**

## BOROUGH OF ESSEX FELLS

### NOTES TO FINANCIAL STATEMENTS YEAR ENDED DECEMBER 31, 2009

#### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

##### A. Reporting Entity

The Borough of Essex Fells is organized as a Mayor-Council municipality under the provisions of N.J.S. 40:69A-81 et seq. The Borough is "governed by an elected Mayor-Council and by an appointed Business Administrator, and by such other officers and employees as may be duly appointed. The Council shall consist of six members elected at large by voters of the municipality and shall serve for a term of three years beginning on the first day of January next following their election. The Mayor shall be elected by the voters of the municipality, and shall serve for a term of four years beginning on the first day of January next following the election".

Each member of the Council carries a legislative vote.

Governmental Accounting Standards Board (GASB) Statement No. 14 establishes certain standards for defining and reporting on the financial reporting entity. In accordance with these standards, the reporting entity should include the primary government and those component units which are fiscally accountable to the primary government.

The financial statements of the Borough of Essex Fells include every board, body, officer or commission supported and maintained wholly or in part by funds appropriated by the Borough, as required by the provisions of N.J.S. 40A:5-5.

##### B. Description of Funds

The Governmental Accounting Standards Board (GASB) is the recognized standard setting body for establishing governmental accounting and financial reporting principles. The GASB establishes seven fund types and two account groups to be used by governmental units when reporting financial position and results of operations in accordance with generally accepted accounting principles (GAAP).

The accounting policies of the Borough of Essex Fells conform to the accounting principles applicable to municipalities which have been prescribed by the Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such principles and practices are designed primarily for determining compliance with legal provisions and budgetary restrictions and as a means of reporting on the stewardship of public officials with respect to public funds. Under this method of accounting, the Borough of Essex Fells accounts for its financial transactions through the following separate funds which differ from the fund structure required by generally accepted accounting principles.

Current Fund - Encompasses resources and expenditures for basic governmental operations. Fiscal activity of Federal and State grant programs are reflected in a segregated section of the Current Fund.

Trust Funds - The records of receipts, disbursements and custodianship of monies in accordance with the purpose for which each account was created are maintained in Trust Funds. These include the Animal Control Trust Fund, Trust Other Fund and the Payroll Account.

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### B. Description of Funds (Continued)

General Capital Fund - The receipts and expenditure records for the acquisition of general infrastructure and other capital facilities, other than those acquired in the Current Fund, are maintained in this Fund, as well as related long-term debt accounts.

Water Utility Fund - The Water Utility is treated as a separate entity. It maintains its own Operating and Capital Fund which reflect revenue, expenditures, stewardship, acquisitions of utility infrastructure and other capital facilities, debt service, long-term debt and other related activity.

Public Assistance Trust Fund - Receipts and disbursements of funds that provide assistance to certain residents of the Borough of Essex Fells pursuant to the provisions of Title 44 of the New Jersey statutes are maintained in the Public Assistance Trust Fund.

Capital Fixed Assets - These accounts reflect estimated valuations of land, buildings and certain movable fixed assets of the Borough as discussed under the caption of "Basis of Accounting". There is no current financial data for these accounts.

### C. Basis of Accounting

The accounting principles and practices prescribed for municipalities by the Division of Local Government Services, Department of Community Affairs, State of New Jersey, differ in certain respects from generally accepted accounting principles. The accounting system is maintained on the modified accrual basis with certain exceptions. Significant accounting policies in New Jersey are summarized as follows:

#### Property Taxes and Other Revenue

Property taxes and other revenue are realized when collected in cash or approved by regulation for accrual from certain sources of the State of New Jersey and the Federal Government. Accruals of taxes and other revenue are otherwise deferred as to realization by the establishment of offsetting reserve accounts. GAAP requires such revenue to be recognized in the accounting period when they become susceptible to accrual, reduced by an allowance for doubtful accounts.

#### Grant Revenue

Federal and State grants, entitlements or shared revenue received for purposes normally financed through the Current Fund are recognized when anticipated in the Borough of Essex Fells budget. GAAP requires such revenue to be recognized in the accounting period when they become susceptible to accrual.

#### Expenditures

Expenditures for general and utility operations are generally recorded on the accrual basis. Unexpended appropriation balances, except for amounts which may have been cancelled by the governing body or by statutory regulation, are automatically recorded as liabilities at December 31<sup>st</sup> of each year, under the title of "Appropriation Reserves".

Grant appropriations are charged upon budget adoption to create spending reserves.

Budgeted transfers to the Capital Improvement Fund are recorded as expenditures to the extent permitted by law.

Expenditures from Trust and Capital Funds are recorded upon occurrence and charged to accounts statutorily established for specific purposes.

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### C. Basis of Accounting (Continued)

#### Expenditures (Continued)

Budget Appropriations for interest on General Capital Long-Term Debt is raised on the cash basis and is not accrued on the records; interest on Utility Debt is raised on the accrual basis and so recorded.

GAAP requires expenditures to be recognized in the accounting period in which the fund liability is incurred, if measurable, except for unmatured interest on general long-term debt, which should be recognized when due.

#### Encumbrances

As of January 1, 1986 all local units were required by Technical Accounting Directive No. 85-1, as promulgated by the Division of Local Government Services, to maintain an encumbrance accounting system. The directive states that contractual orders outstanding at December 31st are reported as expenditures through the establishment of an encumbrance payable. Encumbrances do not constitute expenditures under GAAP.

#### Appropriation Reserves

Appropriation reserves are available, until lapsed at the close of the succeeding year, to meet specific claims, commitments or contracts incurred during the preceding year. Lapsed appropriation reserves are recorded as additions to income. Appropriation reserves do not exist under GAAP.

#### Compensated Absences

Expenditures relating to obligations for unused vested accumulated sick, vacation and compensatory pay are not recorded until paid. GAAP requires that the amount that would normally be liquidated with expendable available financial resources be recorded as an expenditure in the operating funds and the remaining obligations be recorded as a long-term obligation.

#### Property Acquired for Taxes

Property Acquired for Taxes (Foreclosed Property) is recorded in the Current Fund at the assessed valuation during the year when such property was acquired by deed or foreclosure and is offset by a corresponding reserve account. GAAP requires such property to be recorded in the general fixed assets account group at market value on the date of acquisition.

#### Self-Insurance Contributions

Contributions to self-insurance funds are charged to budget appropriations. GAAP requires that payments be accounted for as an operating transfer and not as an expenditure.

#### Interfunds Receivable

Interfunds Receivable in the Current Fund are generally recorded with offsetting reserves which are established by charges to operations. Collections are recognized as income in the year that the receivables are realized. Interfunds Receivable of all other funds are recorded as accrued and are not offset with reserve accounts. Interfunds Receivable of one fund are offset with Interfunds Payable of the corresponding fund. GAAP does not require the establishment of an offsetting reserve.

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### C. Basis of Accounting (Continued)

#### Inventories of Supplies

Materials and supplies purchased by all funds are recorded as expenditures.

An annual inventory of materials and supplies for the Water Utility is required, by regulation, to be prepared by Borough personnel for inclusion on the Water Utility Operating Fund balance sheet. Annual changes in valuations, offset with a Reserve Account, are not considered as affecting results of operations. Materials and supplies of other funds are not inventoried nor included on their respective balance sheets.

#### Capital Fixed Assets

General:

In accordance with Technical Accounting Directive No. 85-2, Accounting for Governmental Fixed Assets, as promulgated by the Division of Local Government Services, which differs in certain respects from generally accepted accounting principles, the Borough of Essex Fells has not developed a capital fixed asset accounting and reporting system.

GAAP requires that capital fixed assets be capitalized at historical or estimated historical cost if actual historical cost is not available. Depreciation on utility fixed assets should also be recorded.

Capital fixed assets used in governmental operations (capital fixed assets) are accounted for in the Capital Fixed Assets. Public domain ("infrastructure") capital fixed assets consisting of certain improvements other than buildings, such as roads, bridges, curbs and gutters, streets and sidewalks and drainage systems are not capitalized.

Acquisitions of land, buildings, machinery, equipment and other capital assets are recorded on a perpetual capital fixed assets record.

Vehicles, furniture, equipment and other items are reflected at replacement values at time of inventory preparation. Additions to the established capital fixed assets are valued at cost.

Depreciation of assets is not recorded as an operating expense of the Borough.

Utilities:

Capital acquisitions, including utility infrastructure costs of the Water Utility, are recorded at cost upon purchase or project completion in the Fixed Capital Account of the utility. The Fixed Capital Accounts are adjusted for dispositions or abandonments. The accounts include movable fixed assets of the Utility but are not specifically identified and are considered as duplicated in the Capital Fixed Assets. The duplication is considered as insignificant on its effect on the financial statements taken as a whole.

Utility improvements that may have been constructed by developers are not recorded as additions to Fixed Capital.

Fixed Capital of the Utility is offset by accumulations in Amortization Reserve Accounts. The accumulations represent costs of fixed assets purchased with budgeted funds or acquired by gift as well as grants, developer contributions or liquidations of related bonded debt and other liabilities incurred upon fixed asset acquisition.



## **1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

### **C. Basis of Accounting (Continued)**

#### **Capital Fixed Assets (Continued)**

Utilities: (Continued)

The Fixed Capital Accounts reflected herein are as recorded in the records of the municipality and do not necessarily reflect the true condition of such Fixed Capital. The records consist of a control account only. Detailed records are not maintained.

### **D. Basic Financial Statements**

The GASB Codification also defines the financial statements of a governmental unit to be presented in the general purpose financial statements to be in accordance with GAAP. The Borough of Essex Fells presents the financial statements listed in the table of contents which are required by the Division of Local Government Services and which differ from the financial statements required by GAAP. In addition, the Division requires the financial statements listed in the table of contents to be referenced to the supplementary schedules. This practice differs from GAAP.

## **2. CASH, CASH EQUIVALENTS AND INVESTMENTS**

### **A. Cash and Cash Equivalents**

New Jersey statutes permit the deposit of public funds in institutions located in New Jersey, which are insured by the Federal Deposit Insurance Corporation (FDIC) or any other agencies of the United States that insures deposits or the State of New Jersey Cash Management Fund.

The State of New Jersey Cash Management Fund is authorized by statute and regulations of the State Investment Council to invest in fixed income and debt securities which mature or are redeemed within one year. Twenty-five percent of the Fund may be invested in eligible securities which mature within two years provided, however, the average maturity of all investments in the Fund shall not exceed one year. Collateralization of Fund investments is generally not required.

In addition, by regulation of the Division of Local Government Services, municipalities are allowed to deposit funds in Government Money Market Mutual Funds purchased through state registered brokers/dealers and banks.

In accordance with the provisions of the Governmental Unit Deposit Protection Act of New Jersey, public depositories are required to maintain collateral for deposits of public funds that exceed insurance limits as follows:

The market value of the collateral must equal five percent of the average daily balance of public funds or

If the public funds deposited exceed 75 percent of the capital funds of the depository, the depository must provide collateral having a market value equal to 100 percent of the amount exceeding 75 percent.

All collateral must be deposited with the Federal Reserve Bank, The Federal Home Loan Bank Board or a banking institution that is a member of the Federal Reserve System and has capital funds of not less than \$25,000,000.00.

## **2. CASH, CASH EQUIVALENTS AND INVESTMENTS (Continued)**

### **B. Investments**

New Jersey statutes permit the Borough to purchase the following types of securities:

- . Bonds or other obligations of the United States of America or obligations guaranteed by the United States of America. This includes instruments such as Treasury bills, notes and bonds.
- . Government money market mutual funds.
- . Any federal agency or instrumentality obligation authorized by Congress that matures within 397 days from the date of purchase, and has a fixed rate of interest not dependent on any index or external factors.
- . Bonds or other obligations of the local unit or school districts of which the local unit is a part.
- . Any other obligations with maturities not exceeding 397 days, as permitted by the Division of Investments.
- . Local government investment pools, such as New Jersey CLASS, and the New Jersey Arbitrage Rebate Management Program.
- . New Jersey State Cash Management Fund.
- . Repurchase agreements of fully collateralized securities, subject to special conditions.

### **C. Risk Category**

A variety of state laws permit local governments to invest in a wide range of obligations issued by state governments and its agencies.

As of December 31, 2009, the Borough had funds on deposit in checking accounts, New Jersey Cash Management Accounts and Certificates of Deposit. The carrying amount of the Borough's cash and cash equivalents and investments as of December 31, 2009 was \$2,612,795.12. These funds constitute "deposits with financial institutions" as defined by GASB Statement No. 40. There were no securities categorized as investments as defined by GASB Statement No. 40.

## **3. TAXES AND TAX TITLE LIENS RECEIVABLE**

Property assessments are determined on true values and taxes are assessed based upon these values. The residential tax bill includes the levies for the Borough, County and School purposes. Certified adopted budgets are submitted to the County Board of Taxation by each taxing district. The tax rate is determined by the board upon the filing of these budgets.

The tax bills are mailed by the Tax Collector annually in June and are payable in four quarterly installments due the first of August and November of the current year and a preliminary billing due the first of February and May of the subsequent year. The August and November billings represent the third and fourth quarter installments and are calculated by taking the total year tax levy less the preliminary first and second quarter installments due February and May. The preliminary levy is based on one-half of the current year's total tax.

### 3. TAXES AND TAX TITLE LIENS RECEIVABLE (Continued)

Tax installments not paid by the above due dates are subject to interest penalties determined by a resolution of the governing body. The rate of interest in accordance with the aforementioned resolution is 8% per annum on the first \$1,500 of delinquency and 18% on any delinquency in excess of \$1,500. The governing body may also fix a penalty to be charged to a taxpayer with a delinquency in excess of \$10,000.00 who fails to pay that delinquency as billed prior to the end of the fiscal year. The penalty so fixed shall not exceed 6% of the amount of the delinquency with respect to each most recent fiscal year only. The resolution also sets a grace period of ten days before interest is calculated.

Taxes unpaid on the 11<sup>th</sup> day of the eleventh month in the fiscal year when the taxes become in arrears are subject to the tax sale provisions of the New Jersey statutes. The municipality may institute in rem foreclosure proceedings after six months from the date of the sale if the lien has not been redeemed.

The following is a five year comparison of certain statistical information relative to property taxes and property tax collections for the current and previous four years:

	<u>2009</u>	<u>2008</u>	<u>2007</u>	<u>2006</u>	<u>2005</u>
Tax Rate	<u>\$1.606</u>	<u>\$1.617</u>	<u>\$ 1.49</u>	<u>\$ 1.47</u>	<u>\$ 1.40</u>
Apportionment of Tax Rate:					
Municipal	\$0.370	\$0.350	\$ 0.32	\$ 0.31	\$ 0.30
County	0.397	0.420	0.41	0.43	0.40
County Open Space	0.016	0.017	0.01	0.01	0.01
Local School	0.475	0.454	0.43	0.40	0.38
Regional High School	0.348	0.376	0.32	0.32	0.31

#### Assessed Valuations

<u>Year</u>	<u>Amount</u>
2009	\$ 815,419,133.00
2008	819,859,514.00
2007	815,247,863.00
2006	811,994,213.00
2005	809,115,363.00

#### Comparison of Tax Levies and Collections

<u>Year</u>	<u>Tax Levy</u>	<u>Collections</u>	<u>Percentage of Collections</u>
2009	\$ 13,110,207.76	\$ 12,909,486.79	98.46 %
2008	13,305,564.60	13,015,915.28	97.82
2007	12,229,037.55	11,939,514.90	97.63
2006	11,994,284.19	11,873,132.52	98.99
2005	11,367,578.75	11,205,075.77	98.57

**3. TAXES AND TAX TITLE LIENS RECEIVABLE (Continued)**

**Delinquent Taxes and Tax Title Liens**

<u>Year</u>	<u>Amount of Tax Title Liens</u>	<u>Amount of Delinquent Taxes</u>	<u>Total Delinquent</u>	<u>Percentage of Tax Levy</u>
2009	\$ -	\$ 97,259.09	\$ 97,259.09	0.74 %
2008	-	166,314.04	166,314.04	1.25
2007	-	283,195.13	283,195.13	2.32
2006	-	101,828.66	101,828.66	0.85
2005	-	103,975.91	103,975.91	0.91

**4. PROPERTY ACQUIRED BY TAX TITLE LIEN LIQUIDATION**

The value of property acquired by liquidation of tax title liens, on the basis of the last assessed valuation of such properties in the year of acquisition, was as follows:

<u>Year</u>	<u>Amount</u>
2009	\$ 1,900.00
2008	1,900.00
2007	1,900.00
2006	1,900.00
2005	1,900.00

**5. WATER CONSUMER ACCOUNTS RECEIVABLE**

The Borough of Essex Fells maintains a utility fund for the billing and collection of water rents. The Borough's billings are done on a quarterly basis.

A comparison of Water Utility billings and collections for the past five years are as follows:

<u>Year</u>	<u>Billing</u>	<u>Collection</u>
2009	\$ 2,009,334.88	\$ 2,231,152.57
2008	2,249,711.02	2,294,435.93
2007	2,210,154.86	2,117,947.27
2006	2,110,187.60	2,139,412.97
2005	2,230,891.94	2,085,985.08

## 6. FUND BALANCES APPROPRIATED

	<u>Year</u>	<u>Balance December 31,</u>	<u>Utilized in Budgets of Succeeding Year</u>
Current Fund:	2009	\$ 229,093.00	\$ 163,343.00
	2008	526,236.86	512,500.00
	2007	528,439.19	380,000.00
	2006	899,711.77	800,000.00
	2005	759,413.60	687,400.00
Water Utility Operating Fund:	2009	155,452.04	130,000.00
	2008	106,538.81	81,867.00
	2007	100,319.72	31,867.00
	2006	511,589.44	416,000.00
	2005	702,001.62	296,040.00

## 7. PENSION PLANS

### Description of Systems

Substantially all of the Borough's employees participate in one of the following contributory defined benefit public employee retirement systems which have been established by State statute: the Public Employees' Retirement System (PERS) or the Police and Firemen's Retirement System (PFRS). In addition, the Borough contributes to the Consolidated Police and Firemen's Pension Fund (CPFPPF). These systems are sponsored and administered by the New Jersey Division of Pensions and Benefits. The Public Employees' Retirement System and the Police and Firemen's Retirement System is considered a cost sharing multiple-employer plan.

#### Public Employees' Retirement System:

The Public Employees' Retirement System (PERS) was established in January, 1955 under the provisions of N.J.S.A. 43:15 to provide coverage, including post-retirement health care, to substantially all full time employees of the State or any county, municipality, school district or public agency provided the employee is not a member of another State-administered retirement system. Membership is mandatory for such employees and vesting occurs after 8 to 10 years of service and 25 years for health care coverage. Members are eligible for retirement at age 60 with an annual benefit generally determined to be 1/55<sup>th</sup> of the average annual compensation for the highest three fiscal years' compensation for each year of membership during years of creditable service. Pension benefits for members enrolled in the system after May 21, 2010 would be based on 1/60<sup>th</sup> of the average annual compensation for the last five years of service or any five fiscal years of membership that provide the largest benefit to the member of the member's beneficiary. Early retirement is available to those under age 60 with 25 or more years of credited service. Anyone who retires early and is under age 55 receives retirement benefits as calculated in the above-mentioned formula but at a reduced rate (one quarter of one percent for each month the member lacks of attaining age 55).

**7. PENSION PLANS (Continued)**

**Description of Systems (Continued)**

Police and Firemen’s Retirement System:

The Police and Firemen’s Retirement System (PFRS) was established in July, 1944 under the provisions of N.J.S.A. 43:16A to provide coverage to substantially all full time county and municipal police or firemen and State firemen appointed after June 30, 1944. Membership is mandatory for such employees. Members may opt for Service Retirement if over age 55 or Special Retirement at any age if they have a minimum of 25 years of service or 20 years of service if enrolled in the PFRS as of January 18, 2000. Retirement benefits vary depending on age and years of service.

Chapter 428, Public Law of 1999, effective January 18, 2000, allows a member, age 55 and older with 20 or more years of service, to retire with a benefit equaling 50% of final compensation, in lieu of the regular retirement allowance available to the member. Final compensation means the compensation received by the member in the last twelve months of creditable service preceding retirement.

In addition, a member of the system as of the effective date of this law may retire with 20 or more years of service with a retirement allowance of 50% of final compensation, regardless of age, and, if required to retire because of attaining the mandatory retirement age of 65, an additional 3% of final compensation for every additional year of creditable service up to 25 years.

**Contributions Required and Made**

Contributions made by employees for PERS and PFRS are currently 5.5% and 8.5% of their base wages, respectively. Employer contributions are actuarially determined on an annual basis by the Division of Pensions. Contributions to the plan for the past three (3) years are as follows:

Year	PERS			PFRS		
	Normal and Accrued	Pension Security Act Credit*	Employees	Normal and Accrued	Pension Security Act Credit*	Employees
2009	\$68,775.00	\$	\$ (1)	\$236,141.00	\$	\$ (1)
2008	49,578.50		(1)	228,624.00		(1)
2007	52,719.00		(1)	203,851.00	62,417.00	(1)

\*Contributions funded in full or partially by credits.

(1) Records were not maintained summarizing payroll deductions.

**8. DEFINED CONTRIBUTION RETIREMENT PROGRAM**

**Description of System**

The Defined Contribution Retirement Program (DCRP) was established on July 1, 2007 for certain public employees under the provisions of Chapter 92, P.L. 2007 and Chapter 103, P.L. 2007 and provides eligible members, with a minimum base salary of \$1,500.00 or more, with a tax-sheltered, defined contribution retirement benefit, in addition to life insurance and disability coverage. As of May 21, 2010, the Municipal Base Salary required for eligibility in DCRP was increased to \$5,000.00. The DCRP is jointly administered by the Division of Pensions and Benefits and Prudential Financial.

If the eligible elected or appointed official will earn less than \$5,000.00 annually, the official may choose to waive participation in the DCRP for that office or position. This waiver is irrevocable.

## **8. DEFINED CONTRIBUTION RETIREMENT PROGRAM (Continued)**

### **Description of System (Continued)**

This retirement program is a new pension system where the value of the pension is based on the amount of the contribution made by the employee and employer and through investment earnings. It is similar to a Deferred Compensation Program where the employee has a portion of tax deferred salary placed into an account that the employee manages through investment options provided by the employer.

The law requires that three classes of employees enroll in the DCRP detailed as follows:

- All elected officials taking office on or after July 1, 2007, except that a person who is reelected to an elected office held prior to that date without a break in service may remain in the Public Employment Retirement System (PERS).
- A Governor appointee with the advice and consent of the Legislature or who serves at the pleasure of the Governor only during that Governor's term of office.
- Other employees commencing service after July 1, 2007, pursuant to an appointment by an elected official or elected governing body which include the statutory untenured Chief Administrative Officer such as the Business Administrator, County Administrator or Municipal or County Manager, Department Heads, Legal Counsel, Municipal or County Engineer, Municipal Prosecutor and the Municipal Court Judge.

Notwithstanding the foregoing requirements other employees who hold a professional license or certificate or meet other exceptions are permitted to remain to join or remain in PERS.

### **Contributions Required**

Contributions made by employees for DCRP are currently at 5.5% of their base wages. Member contributions are matched by a 3.0% employer contribution.

During the year 2009 there were no employees enrolled in the DCRP.

## **9. MUNICIPAL DEBT**

The Local Bond Law governs the issuance of bonds and notes to finance general capital expenditures. All bonds are retired in serial installments within the statutory period of usefulness. Bonds issued by the Borough are general obligation bonds, backed by the full faith and credit of the Borough. Pursuant to N.J.S.A. 40A:2-8, bond anticipation notes, which are issued to temporarily finance capital projects, cannot be renewed past the third anniversary unless an amount equal to at least the first legally required installment is paid prior to each anniversary and must be paid off within ten years and five months or retired by the issuance of bonds.

**9. MUNICIPAL DEBT (Continued)**

**Summary of Municipal Debt (Excluding Current and Operating Debt)**

	<u>Year 2009</u>	<u>Year 2008</u>	<u>Year 2007</u>
Bonds Payable	\$ 2,855,000.00	\$ 3,085,000.00	\$ 3,310,000.00
<u>Issued</u>			
<u>General:</u>			
Bonds and Notes	1,013,000.00	1,013,000.00	765,500.00
<u>Water Utility:</u>			
Bonds and Notes	1,051,000.00	1,064,000.00	987,000.00
	<u>4,919,000.00</u>	<u>5,162,000.00</u>	<u>5,062,500.00</u>
<u>Authorized but Not Issued</u>			
<u>General:</u>			
Bonds and Notes			247,500.00
<u>Water Utility:</u>			
Bonds and Notes	1,168,750.00	1,168,750.00	580,000.00
	<u>1,168,750.00</u>	<u>1,168,750.00</u>	<u>827,500.00</u>
	<u>\$ 6,087,750.00</u>	<u>\$ 6,330,750.00</u>	<u>\$ 5,890,000.00</u>

**Summary of Statutory Debt Condition - Annual Debt Statement**

The summarized statement of debt condition which follows is prepared in accordance with the required method of setting up the Annual Debt Statement and indicates a statutory net debt of 0.477%.

	<u>Gross Debt</u>	<u>Deductions</u>	<u>Net Debt</u>
Local School District Debt	\$ 1,080,000.00	\$ 1,080,000.00	\$
Regional School District Debt	2,888,979.80	2,888,979.80	
Water Utility Debt	2,219,750.00	1,928,433.60	291,316.40
General Debt	3,868,000.00		3,868,000.00
	<u>\$ 10,056,729.80</u>	<u>\$ 5,897,413.40</u>	<u>\$ 4,159,316.40</u>

Net debt of \$4,159,361.40 divided by the Equalized Valuation Basis per N.J.S. 40:2-2 as amended, \$869,502,538.00 equals 0.477%.

**Borrowing Power Under N.J.S. 40A:2-6 as Amended**

Equalized Valuation Basis	\$ 30,432,588.83
	<u>4,159,316.40</u>
Borrowing Power	<u>\$ 26,273,272.43</u>

**School Debt Deductions**

School debt is deductible up to the extent of 4.0% of the Average Equalized Assessed Valuations of real property for the Local School District.



**9. MUNICIPAL DEBT (Continued)**

**Calculation of "Self-Liquidating Purposes" Water Utility per N.J.S. 40A:2-45**

Fund Balance and Cash Receipts from Fees, Rents or Other Charges for Year	\$ 2,092,705.61
Deductions:	
Operating, Maintenance Costs and Debt Service	<u>2,084,915.22</u>
Excess in Revenue	<u>\$ 7,790.39</u>

There being a deficit in revenue, not all Water Utility Debt is deductible for Debt Statement purposes.

A Schedule of Annual Debt Service for Principal and Interest for Bonded Debt Issued and Outstanding is detailed as follows:

<u>Year</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2010	\$ 230,000.00	\$ 112,250.00	\$ 342,250.00
2011	240,000.00	102,850.00	342,850.00
2012	265,000.00	92,750.00	357,750.00
2013	265,000.00	81,894.38	346,894.38
2014	270,000.00	70,950.01	340,950.01
2015	270,000.00	59,812.51	329,812.51
2016	265,000.00	48,778.13	313,778.13
2017	265,000.00	37,846.88	302,846.88
2018	265,000.00	26,915.63	291,915.63
2019	265,000.00	15,984.38	280,984.38
2020	<u>255,000.00</u>	<u>5,259.38</u>	<u>260,259.38</u>
	<u>\$ 2,855,000.00</u>	<u>\$ 655,291.30</u>	<u>\$ 3,510,291.30</u>

**Bond Anticipation Notes**

Outstanding Bond Anticipation Notes are summarized as follows:

<u>Notes</u>	<u>Interest Rate</u>	<u>Amount</u>
General	2.25%	\$ 1,013,000.00
Water Utility Capital	2.25%	<u>1,051,000.00</u>
		<u>\$ 2,064,000.00</u>

Statutory requirements for providing sums equivalent to legally payable installments for the redemption of notes (Budget Appropriations) and permanent funding (Bond Issues) are summarized as follows:

<u>Original Note Issued</u>	<u>Legal Installments Due</u>	<u>Funding Required as of May 1,</u>
2003	2006	2013
2008	2011	2018
2009	2013	2020

**9. MUNICIPAL DEBT (Continued)**

**Bonds and Notes Authorized but Not Issued**

There are bonds and notes authorized but not issued in the following amounts:

	Balance <u>Dec. 31, 2009</u>
Water Utility Capital Fund:	
General Improvements	<u>\$1,168,750.00</u>

**10. INTERFUND RECEIVABLES AND PAYABLES**

As of December 31, 2009, interfund receivables and payables that resulted from various interfund transactions were as follows:

<u>Fund</u>	<u>Due from Other Funds</u>	<u>Due to Other Funds</u>
Current Fund	\$ 147,233.52	\$ 280,018.77
Federal and State Grant Fund	16,374.07	62,478.39
General Trust Fund		57,175.52
Water Utility Operating Fund	1,562.27	34,376.74
Water Utility Capital Fund	5,368.65	45.26
Public Assistance Trust Fund #1	927.03	
Public Assistance Trust Fund #2		2,878.75
Payroll Fund	41,632.24	56,143.12
General Capital Fund	<u>280,018.77</u>	<u>                    </u>
	<u>\$ 493,116.55</u>	<u>\$ 493,116.55</u>

**11. DEFERRED CHARGES TO BE RAISED IN SUCCEEDING YEARS BUDGET**

Certain expenditures are required to be deferred to budgets of succeeding years. At December 31, 2009 the following deferred charges are shown on the balance sheets of various funds:

	<u>Balance Dec. 31, 2009</u>	<u>2010 Budget Appropriation</u>	<u>To be Raised in Future Budgets</u>
Current Fund:			
Emergency Authorization (N.J.S.A. 40A:4-46)	<u>\$ 45,000.00</u>	<u>\$ 45,000.00</u>	<u>\$ -</u>

## 12. DEFERRED COMPENSATION PLAN

The Borough of Essex Fells offers its employees a Deferred Compensation Plan created in accordance with the provisions of N.J.S. 43:15B-1 et seq. and the Internal Revenue Code, Section 457. The plan, available to all municipal employees, permits them to defer a portion of their salary until future years. The deferred compensation is not available to employees until termination, retirement, death, or unforeseeable emergency.

Statutory and regulatory requirements governing the establishment and operation of Deferred Compensation Plans have been codified in the New Jersey Administrative Code under the reference N.J.A.C. 5:37.

The "Small Business Job Protective Act of 1996" revised several provisions of Section 457 of the Internal Revenue Code. A provision of the act required that all existing plans be modified to provide that the funds be held for the exclusive benefit of the participating employees and their beneficiaries.

The Borough of Essex Fells authorized such modifications to their plan by resolution of the Borough Council adopted November 18, 1997.

The Administrator for the Borough of Essex Fells Deferred Compensation Plan is the ICMA Retirement Corporation.

## 13. DEFERRED SCHOOL TAX

The Local School District Tax and the Regional High School Tax were raised on the school year basis and liability deferred by statute, resulting in school taxes payable set forth in liabilities computed as follows:

	Local School District		Regional High School	
	Balance <u>Dec. 31, 2009</u>	Balance <u>Dec. 31, 2008</u>	Balance <u>Dec. 31, 2009</u>	Balance <u>Dec. 31, 2008</u>
*Balance of Tax	\$ 399,615.50	\$ 399,615.50	\$ 1,414,002.60	\$ 1,461,663.20
Amount Deferred	<u>399,615.50</u>	<u>399,615.50</u>	<u>1,414,002.60</u>	<u>1,461,663.20</u>
Tax Payable (Cash Liability)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

\*Required for school operations for the six month period following December 31<sup>st</sup>.

#### 14. RISK MANAGEMENT

The Borough of Essex Fells maintains a self-insurance fund for general liability and workers' compensation.

Under the terms of the New Jersey Municipal Joint Insurance Fund, the first \$100,000.00 of exposure is backed by the joint resources of Jif and any exposure beyond that amount is covered by the Municipal Excess Liability Joint Insurance Fund as follows:

<u>Coverage</u>	<u>Deductible</u>	<u>Limits</u>
1. Property (Blanket Building and Contents)	\$ 1,000	\$ 150,000
2. Boiler and Machinery	\$ 3,500	\$ 150,000
3. Equipment Floater (Scheduled)		Included Under Property Coverage
4. Auto Physical Damage (Scheduled)	\$ 1,000	Actual Cash Value
5. Blanket Bond		\$ 50,000
6. Auto Liability		\$ 5,000,000
7. General Liability		\$ 5,000,000
8. Public Official Liability		\$ 1,000,000
9. Worker Compensation and Employer Liability		Statutory

#### 15. HAZARDOUS DISCHARGE SITE CLEAN-UP FUND

The Borough has entered into an agreement with the New Jersey Department of Environmental Protection to fund a centralized Water Treatment Plant. The Borough will temporarily finance the project from available cash in the Capital Improvement Fund and will then be reimbursed by the Department of Environmental Protection. A total of \$1,200,000.00 has been paid to the State by firms held responsible for polluting certain wells within the Borough.

On January 17, 1989, Ordinance #88-546 was adopted appropriating the sum of \$1,001,044.00 for this project. As costs increase, the Ordinance will be subject to amendments for current needs including the entire aforementioned \$1,200,000.00.

The initial phase of this project has been completed. As part of Phase II, the Borough operates this plant and submits operating and maintenance vouchers for State reimbursement on a semiannual basis. The initial award of \$323,815.00 provides for the Operations and Maintenance of this plant over a period of twenty years. With three years remaining, the balance available to be drawn down by the Borough is \$41,577.09. The additional award of \$262,010.89 in 2001 will also provide for the operations and maintenance of this plant over a period of twenty years.

## **16. CONTINGENT LIABILITIES**

### **a. Compensated Absences**

The Borough's "Sick Leave" policy does not permit employees to accrue sick pay.

Unused vacation days, holidays and compensatory time are allowed to accrue and may be taken by the employee as compensatory time or payment at a later date at an agreed upon rate. Borough officials estimate that as of December 31, 2009, the sum of \$183,054.05, based upon 2009 salary rates, has accrued to the benefit of 23 employees and officials.

Provisions for the above are not reflected on the financial statements of the Borough.

The above amount has not been audited.

### **b. Tax Appeals**

Judgments favorable to the taxpayers generally extend to two years following the year judged and would also subject the Borough to a liability for statutory interest based upon the amount of taxes refunded from the date of payment to the date of refund (R.S 54:3-27.2).

### **c. Federal and State Awards**

The Borough participates in several federal and state grant programs which are governed by various rules and regulations of the grantor agencies; therefore to the extent that the Borough has not complied with the rules and regulations governing the grants, refunds of any money received may be required and the collectibility of any related receivable at December 31, 2009 may be impaired. In the opinion of management, there are no significant contingent liabilities relating to compliance with the rules and regulations governing the respective grants; therefore, no provisions have been recorded in the accompanying statutory basis financial statements for such contingencies.

### **d. Litigation**

The Borough Attorney's letter did not indicate any litigation, claims or contingent liabilities that are either not covered by the Borough's insurance carrier or would have a material financial impact on the Borough.

**APPENDIX B**

**FORM OF CONTINUING DISCLOSURE AGREEMENT**

## CONTINUING DISCLOSURE CERTIFICATE

**THIS CONTINUING DISCLOSURE CERTIFICATE** is made as of February \_\_, 2011 by the Borough of Essex Fells, County of Essex, New Jersey, a political subdivision duly organized under the laws of the State of New Jersey (the "Issuer").

### WITNESSETH:

**WHEREAS**, the Issuer is issuing its General Obligation Bonds, Series 2011 dated February \_\_, 2011 in the aggregate principal amount of \$3,349,000 (the "Bonds") on the date hereof; and

**WHEREAS**, the Bonds are being issued pursuant to bond ordinances adopted by the Issuer and a certificate signed by the Issuer on February \_\_, 2011; and

**WHEREAS**, the Securities and Exchange Commission (the "SEC") pursuant to the Securities Exchange Act of 1934, as amended and supplemented (codified on the date hereof at 15 U.S.C. 77 et seq.) (the "Securities Exchange Act") has adopted amendments to its Rule 15c2-12 (codified at 17 C.F.R. § 240.15c2-12) ("Rule 15c2-12") effective July 3, 1995 which generally prohibit a broker, dealer, or municipal securities dealer from purchasing or selling municipal securities, such as the Bonds, unless such broker, dealer or municipal securities dealer has reasonably determined that an issuer of municipal securities or an obligated person has undertaken in a written agreement or contract for the benefit of holders of such securities to provide certain annual financial information and event notices to the Municipal Securities Rulemaking Board; and

**WHEREAS**, the Issuer represented in its Notice of Sale dated January 27, 2011 (the "Notice of Sale") that it would deliver on the closing date for the Bonds a "Continuing Disclosure Certificate" pursuant to which the Issuer will agree to provide certain financial and operating data, and timely notice of certain material events required to be disclosed on a continual basis pursuant to Rule 15c2-12; and

**WHEREAS**, on February 3, 2011, the Issuer accepted the bid of \_\_\_\_\_, on behalf of itself and each of the original underwriters for the Bonds (the "Participating Underwriter") for the purchase of the Bonds; and

**WHEREAS**, the execution and delivery of this Certificate has been duly authorized by the Issuer and all conditions, acts and things necessary and required to exist, to have happened, or to have been performed precedent to and in the execution and delivery of this Certificate, do exist, have happened and have been performed in regular form, time and manner; and

**WHEREAS**, the Issuer is executing this Certificate for the benefit of the Holders of the Bonds.

**NOW, THEREFORE,** for and in consideration of the premises and of the mutual representations, covenants and agreements herein set forth, the Issuer, its successors and assigns, do mutually promise, covenant and agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

Section 1.1 Terms Defined in Recitals. The following terms shall have the meanings set forth in the recitals hereto:

Bonds	Participating Underwriter
Issuer	Rule 15c2-12
Notice of Sale	SEC
	Securities and Exchange Act

Section 1.2 Additional Definitions. The following additional terms shall have the meanings specified below:

“Annual Report” means Financial and Operating Data.

“Bondholder” or “holder” or any similar term, when used with reference to a Bond or Bonds, means any person who shall be the registered owner of any outstanding Bond, including holders of beneficial interests in the Bonds.

“Business Day” means any day other than (a) a Saturday or Sunday, (b) a day on which commercial banks in New York, New York or in Newark, New Jersey are authorized or required by law to close or (c) a day on which the New York Stock Exchange is closed.

“Disclosure Event” means any event described in subsection 2.1(b) of this Certificate.

“Disclosure Event Notice” means the notice to the MSRB as provided in subsection 2.2.

“Disclosure Representative” means the Board Secretary of the Issuer or his or her designee, or such other officer or employee as the Issuer shall designate from time to time.

“Dissemination Agent” means an entity acting in such capacity under this Certificate or any other successor entity designated in writing by the Issuer and which has filed a written acceptance of such designation.

“Final Official Statement” means the final Official Statement of the Issuer dated February \_\_, 2011 pertaining to the Bonds.

“Financial and Operating Data” means audited financial statements (or unaudited financial statements if audited financial statements are not then available by the date of filing) of the Issuer and certain financial information and operating data of the Issuer of the type included in the Final Official Statement consisting of (i) Issuer and overlapping indebtedness including a



schedule of outstanding debt issued by the Borough, (ii) the Issuer's most current adopted budget, (iii) property valuation information, (iv) tax rate, levy and collection data, and (v) such other financial information or operating data which is customarily prepared by the Issuer and which is publicly available.

"Fiscal Year" means the fiscal year of the Issuer. As of the date of this Certificate, the Fiscal Year of the Issuer begins on January 1 and closes on December 31 of the next succeeding calendar year.

"MSRB" means the Municipal Securities Rulemaking Board or any other entity designated or authorized by the Securities and Exchange Commission to receive reports pursuant to the Rule. Until otherwise designated by the MSRB or the Securities and Exchange Commission, filings with the MSRB are to be made through the Electronic Municipal Market Access (EMMA) website of the MSRB, currently located at <http://emma.msrb.org>.

Section 1.3 Interpretation. Words of masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular include the plural and vice versa, and words importing persons include corporations, associations, partnerships (including limited partnerships), trusts, firms and other legal entities, including public bodies, as well as natural persons. Articles and Sections referred to by number mean the corresponding Articles and Sections of this Certificate. The terms "hereby", "hereof", "hereto", "herein", "hereunder" and any similar terms as used in this Certificate, refer to this Certificate as a whole unless otherwise expressly stated.

As the context shall require, the disjunctive term "or" shall be interpreted conjunctively as required to insure that the Issuer performs any obligations, mentioned in the passage in which such term appears.

The headings of this Certificate are for convenience only and shall not defined or limit the provisions hereof.

## **ARTICLE II**

### **CONTINUING DISCLOSURE COVENANTS AND REPRESENTATIONS**

Section 2.1 Continuing Disclosure Covenants of the Issuer. The Issuer agrees that it will provide, or shall cause the Dissemination Agent to provide:

- (a) Upon request to any person, the Annual Report.
- (b) In a timely manner not in excess of ten business days following the occurrence of any of the Disclosure Events (hereinafter defined), to the MSRB, notice of any of the following events with respect to the Bonds (each, a "Disclosure Event");
  - (i) principal and interest delinquencies;
  - (ii) non-payment related defaults, if material;

- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices of determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of Bondholders; if material;
- (viii) Bond calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the Authority;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the Authority or the sale of all or substantially all of the assets of the Authority, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material.

(c) In a timely manner, to the MSRB, notice of a failure by the Issuer to provide the Annual Report within the period described in subsection 2.1(a) hereof.

Section 2.2 Responsibilities, Duties, Immunities and Liabilities of the Dissemination Agent.

If the Issuer or the Dissemination Agent (if one has been appointed or engaged by the Issuer) has determined it necessary to report the occurrence of a Disclosure Event, the Issuer or Dissemination Agent (if one has been appointed or engaged by the Issuer) shall file a notice of such occurrence with the MSRB (the “Disclosure Event Notice”) in the form provided by the Issuer.

Section 2.3 Appointment, Removal and Resignation of the Dissemination Agent.

(a) The Issuer may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Certificate, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. If at any time there is not any other designated Dissemination Agent, the Issuer shall be the Dissemination Agent.

(b) The Dissemination Agent shall have only such duties as are specifically set forth in this Certificate, and the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents harmless against any loss, expense and liability which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Issuer under this subsection shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

(c) The Dissemination Agent, or any successor thereto, may at any time resign and be discharged of its duties and obligations hereunder by giving not less than thirty (30) days written notice to the Issuer. Such resignation shall take effect on the date specified in such notice.

**ARTICLE III**

**DISCLOSURE DEFAULT AND REMEDIES**

Section 3.1 Disclosure Default. The occurrence and continuation of a failure or refusal by the Issuer to observe, perform or comply with any covenant, condition or agreement on its part to be observed or performed in this Certificate and such failure or refusal shall remain unsecured for a period of thirty (30) days shall constitute a Disclosure Default hereunder.

Section 3.2 Remedies on Default.

(a) Any Bondholder, for the equal benefit and protection of all Bondholders similarly situated, may take whatever action at law or in equity against the Issuer and of the officers, agents and employees of the Issuer which is necessary or desirable to enforce the specific performance and observance of any obligation, agreement or covenant of the Issuer under this Certificate and may compel the Issuer or any such officers, agents, or employees, except of the Dissemination Agent, to perform and carry out their duties under this Certificate; provided, that no person or entity shall be entitled to recover monetary damages hereunder under any circumstances.

(b) In case any Bondholder shall have proceeded to enforce its rights under this Certificate and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to any Bondholder, then and in every such case the Issuer and any Bondholder shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Issuer and any Bondholder shall continue as though no such proceeding had been taken.

(c) A default under this Certificate shall not be deemed a default under the Bonds, and the sole remedy under this Certificate in the event of any failure or refusal by the Issuer to comply with this Certificate shall be as set forth in subsection 3.2(a) of this Certificate.

## ARTICLE IV

### MISCELLANEOUS

Section 4.1 Purposes of the Continuing Disclosure Certificate. This Certificate is being executed and delivered by the Issuer for the benefit of the Bondholders and in order to assist the Participating Underwriters in complying with clause (b)(5) of Rule 15c2-12.

Section 4.2 Additional Information. Nothing in this Certificate shall be deemed to prevent the Issuer from (a) disseminating any other information, using the means of dissemination set forth in this Certificate or any other means of communication, or (b) including any other information in any Annual Report or any Disclosure Event Notice, in addition to that which is required by this Certificate. If the Issuer chooses to include information in any Annual Report or any Disclosure Event Notice in addition to that which is specifically required by this Certificate, the Issuer shall have no obligation under this Certificate, the Issuer shall have no obligation under this Certificate to update such information or include it in any future Annual Report or any future Disclosure Event Notice.

Section 4.3 Notices. All notices or requests for the Annual Report or Disclosure Event Notice shall be in writing and shall be sent by registered or certified mail to the Issuer, Municipal Building, 255 Roseland Avenue, Essex Fells, New Jersey 07021 Attention: Chief Financial Officer.

Section 4.4 Severability. If any provision of this Certificate shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

#### Section 4.5 Amendments, Changes and Modifications.

(a) Without the consent of any Bondholders, the Issuer at any time and from time to time may enter into any amendments or modifications to this Certificate for any of the following purposes:

- (i) to add to covenants and agreements of the Issuer hereunder for the benefit of the Bondholders, or to surrender any right or power conferred upon the Issuer by this Certificate;
- (ii) to modify the contents, presentation and format of the Annual Report from time to time to conform to changes in accounting or disclosure principles or practices and legal requirements followed by or applicable to the Issuer or to reflect changes in the identity, nature or status of the Issuer or in the business, structure or operations of the Issuer or any mergers, consolidations, acquisitions or dispositions made by or affecting the Issuer; provided that any such modification shall comply with the requirements of Rule 15c2-12 as then in effect at the time of such modification; or

- (iii) to cure any ambiguity, to correct or supplement any provision hereof which may be inconsistent with any other provision hereof, or to include any other provisions with respect to matters or questions arising under this Certificate which, in each case, comply with Rule 15c2-12 as then in effect at the time of such modification.

provided, that prior to approving any such amendment or modification, the Issuer determines that such amendment or modifications does not adversely affect the interests of the Holders of the Bonds in any material respect.

(b) Upon entering into any amendment or modification required or permitted by this Certificate, the Issuer shall deliver, or cause the dissemination Agent to deliver, to the MSRB written notice of any such amendment or modification.

(c) The Issuer shall be entitled to rely exclusively upon an opinion of counsel nationally recognized as expert in federal securities law acceptable to the Issuer to the effect that such amendments or modifications comply with the conditions and provisions of this Section 4.5.

Section 4.6 Amendments Required by Rule 15c2-12. The Issuer recognizes that the provisions of this Certificate are intended to enable the participating Underwriters to comply with Rule 15c2-12. If, as a result of a change in Rule 15c2-12 or in the interpretation thereof, a change in this Certificate shall be permitted or necessary to assure continued compliance with Rule 15c2-12 and upon delivery by any Participating Underwriter of an opinion of counsel nationally recognized as expert in federal securities law acceptable to the Issuer to the effect that such amendment shall be permitted or necessary to assure continued compliance by the Participating Underwriter with Rule 15c2-12 as so amended or interpreted, then the Issuer shall amend this Certificate to comply with and be bound by any such amendment to this Certificate to the extent necessary or desirable to assure compliance with the provisions of Rule 15c2-12 and provide the written notice of such amendment as required by subsection 4.5(b) hereof.

Section 4.7 Governing Law. This Certificate shall be governed exclusively by and construed in accordance with the applicable laws of the State of New Jersey.

Section 4.8 Termination of Issuer's Continuing Disclosure Obligations. The continuing obligation of the Issuer under Section 2.1 hereof to provide the Annual Report and any Disclosure Event Notice and to comply with the other requirements of said Section shall terminate if and when either (a) the Bonds are no longer outstanding or (b) the Issuer no longer remains an "obligated person" (as defined in Rule 15c2-12(f)(10) with respect to the Bonds in either event, only after the Issuer delivers, or causes the Dissemination Agent to deliver, to the MSRB written notice to such effect. This Certificate shall be in full force and effect from the date hereof and shall continue in effect so long as any Bonds are Outstanding.

Section 4.9 Binding Effect. This Certificate shall inure to the benefit of and shall be binding upon the Issuer and its successors and assigns.

**IN WITNESS WHEREOF, THE BOROUGH OF ESSEX FELLS, COUNTY OF ESSEX, NEW JERSEY** has caused this Certificate to be executed in its name and its corporate seal to be hereunto affixed, all as of the date first above written.

[SEAL]

**BOROUGH OF ESSEX FELLS,  
COUNTY OF ESSEX, NEW JERSEY**

**By:** \_\_\_\_\_  
Richard T. Mondelli  
Chief Financial Officer

**APPENDIX C**  
**FORM OF LEGAL OPINION**



[FORM OF OPINION OF GIBBONS P.C.]

February \_\_, 2011

Mayor and Borough Council  
Borough of Essex Fells  
255 Roseland Avenue  
Essex Fells, New Jersey 07021

Dear Mayor and Council Members:

We have examined certified copies of the proceedings of the Council of the Borough of Essex Fells, in the County of Essex, State of New Jersey (the "Borough"), including ordinances, affidavits and certificates delivered by officials of the Borough, and other proofs submitted to us relative to the issuance and sale by the Borough of its \$3,349,000 General Obligation Bonds, Series 2011, consisting of \$1,633,000 aggregate principal amount of General Improvement Bonds (the "2011A Bonds") and \$1,716,000 aggregate principal amount of Water Utility Bonds (the "2011B Bonds," and together with the 2011A Bonds, the "Bonds"), dated the date of delivery.

The Bonds are issued pursuant to the Local Bond Law, constituting Chapter 2 of Title 40A of the New Jersey Statutes (the "Local Bond Law"), a resolution of the Borough adopted January 18, 2011 (the "Resolution") and various bond ordinances of the Borough, in all respects duly adopted by the Council of the Borough (the "Bond Ordinances").

Each of the Bonds is dated the date of delivery, bears interest at the interest rate set forth on the cover page of the Official Statement relating to the Bonds and matures on the dates and in the principal amounts as set forth below:

<u>Date</u>	<u>Series 2011A</u>	<u>Series 2011B</u>	<u>Combined</u>
February 1, 2012	\$ 80,000	\$ 80,000	\$160,000
February 1, 2013	100,000	105,000	205,000
February 1, 2014	105,000	110,000	215,000
February 1, 2015	110,000	115,000	225,000
February 1, 2016	115,000	125,000	240,000
February 1, 2017	120,000	130,000	250,000
February 1, 2018	125,000	135,000	260,000
February 1, 2019	130,000	140,000	270,000
February 1, 2020	140,000	145,000	285,000
February 1, 2021	145,000	155,000	300,000
February 1, 2022	150,000	156,000	306,000
February 1, 2023	153,000	160,000	313,000
February 1, 2024	160,000	160,000	320,000

The Bonds are subject to redemption prior to maturity.

We have examined the Local Bond Law and such other laws and originals (or copies certified or otherwise identified to our satisfaction) of such instruments, certificates and documents as we deem necessary to render the opinions set forth herein. In such examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as copies.

Based upon the foregoing and subject to the qualifications set forth herein, we are of the opinion that:

1. The aforementioned proceedings and proofs show lawful authority for the issuance and sale of the Bonds pursuant to the Local Bond Law, and other applicable provisions of law, and that the Bonds have been duly authorized, executed and delivered and are a valid and legally binding obligation of the Borough.

2. The Borough has the power and is obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of the principal of and interest on the Bonds, without limitation as to rate or amount.

3. Under existing law, interest on the Bonds is excluded from the gross income of the owners of the Bonds for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and interest on the Bonds is not an item of tax preference under Section 57 of the Code for purposes of computing alternative minimum tax.

4. Under existing law, interest on the Bonds and net gains from the sale of the Bonds are exempt from the tax imposed by the New Jersey Gross Income Tax Act.

With respect to our Federal income tax opinion, we note that the Code imposes certain requirements that must be met on a continuing basis subsequent to the issuance of the Bonds in order for interest on the Bonds to be excluded from gross income for Federal income tax purposes under Section 103 of the Code. The Borough has covenanted to comply with the provisions of the Code applicable to the Bonds and has covenanted not to take any action or permit any action to be taken which would cause the interest on the Bonds to lose the exclusion from gross income for Federal income tax purposes under Section 103 of the Code or cause interest on the Bonds to be treated as an item of tax preference under Section 57 of the Code. We have assumed continuing compliance by the Borough with the above covenants in rendering our opinion with respect to the exclusion of interest on the Bonds from gross income for Federal income tax purposes and with respect to interest on the Bonds not constituting an item of tax preference.

Attention is called to the fact that we have not been requested to examine and have not examined any documents or information relating to the Borough other than the certified copies of the proceedings and proofs hereinabove referred to, and no opinion is expressed as to any financial or other information, or the adequacy thereof, which has been or may be supplied to any purchaser of said Bonds.

Our opinion concerning the enforceability of the Bonds is subject to federal and state laws regarding bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights and remedies generally (including, without limitation, laws relating to fraudulent conveyance, and by general principles of law and equity (regardless of whether enforcement is considered or sought in proceedings at law or in equity) and by limitation on remedial rights under applicable law). Their enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

The opinions stated herein are based upon current authorities, and there can be no assurance that future legislative or administrative changes or court decisions will not affect said opinions. We undertake no obligation to inform you of any matter occurring after the date of this letter which affects in any way the opinion given herein.

Except as stated above, we express no opinion as to any Federal or state tax consequences with respect to the Bonds.

Very truly yours,

GIBBONS P.C.