

1 Approved
2 Incorporated Village of Asharoken
3 Board of Trustees Meeting & Public Hearing
4 Due to the Corona virus the Board of Trustees held the meeting via Teleconference
5 Tuesday, December 1, 2020 Village Hall
6 Attendance was 27
7

8 Mayor Letica: Good evening everyone. I would like to thank you all for joining the call this evening.
9 This is the regularly scheduled Village of Asharoken Board of Trustees Meeting for December 1,
10 2020. Before we start, I would just like to ask you if you are on the call and you are not speaking, to
11 please put your phone on mute. And if you do want to speak later, just take your phone off mute.
12 Otherwise, any background noise is going to be transmitted over other people speaking, so I thank
13 you very much for that.
14 We will start out with the Pledge of Allegiance.
15

16 Mayor Letica: I would like to start out with a quick roll call to see what Village officials are on the
17 call.
18

19 Deputy Mayor Pierce	Present
20 Trustee Ettinger	Present
21 Trustee Burke	Present
22 Trustee Jablonski	Present
23 Clerk Rittenhouse	Here
24 Treasurer Emily Hayes	Here
25 Village Attorney Migatz	Here
26 Building Inspector Doug Adil	Here
27 Officer-in-Charge Mahdesian	Here
28 Emergency Manager Raisch	Here
29 Harbormaster Affrunti	Not Present
30 Conservation Chair Cohen	Here
31 Sanitation Operator	Not Present

32
33 Mayor Letica: Thank you. Is there anyone that I omitted that is on the call? All right, thank you. So,
34 Nancy, we have proof of publication of this meeting?
35 Nancy Rittenhouse: Yes, we do, Mayor.
36

37 Trustee Ettinger made a motion to approve the Board Meeting minutes for November 10th, 2020
38 seconded by Trustee Jablonski.

39 Trustee Jablonski	AYE
40 Trustee Burke	AYE
41 Trustee Ettinger	AYE
42 Deputy Mayor Pierce	AYE
43 Mayor Letica	AYE
44 Motioned Carried	

45
46 Mayor Letica: All right, the minutes for the last meeting had been approved. We are going to move
47 into the reports of officials. We will start with the Mayor. Once again, I hope that everyone has a
48 very nice Thanksgiving. We were blessed with one of the most beautiful late November weekends.
49

50 Mayor's Report:

51 The New York State Secretary of State has filed Asharoken Local Law 2-2020 regulating parking of
52 commercial vehicles. The law is found officially on the books and can be enforced. Village received
53 notice during the month that a resident wanted to donate her beach lot by the seawall to the village.
54 The village is considering this and pending approval by the board of trustees will accept this
55 donation.

56
57 Tonight, the board of trustees will vote on a resolution to hire Winters Bros. Hauling for emergency
58 garbage pickup. This is the first time that I can remember that the village has formally set up a
59 system to provide for garbage pickup in the event of an emergency such as garbage truck and any
60 major mechanical issue.

61
62 Additionally, the village is likely to have resident (Eric Flood) on call should Barry not be able to do
63 a run for health for personal reasons. Asharoken now has a system set up that should ensure
64 regular garbage collection in the event of unexpected events taking place.

65
66 Santa is coming at Asharoken later this month. Unlike previous years when Santa came to village
67 hall, this year, he will be doing a drive-by visit to the village. The event is planned for Sunday,
68 December 20th, and the final details will be sent out later in the month. I encourage everyone to
69 come out and greet Mr. and Mrs. Clause as they tour the village.

70
71 Finally, I would also like to thank the Asharoken Garden Club for, once again, donating two beautiful
72 Christmas trees to the village. That is the Mayor's Report this evening. Once again, I'd like to ask
73 everyone to please put your phones on mute if you are not speaking. Put your phones on mute,
74 please. Thank you.

75
76 I would like to turn it over to Deputy Mayor, Pam Pierce.

77
78 Deputy Mayor Pierce: Thank you, Mayor. Good evening, everyone. During the month, I
79 participated in several Suffolk County COVID conference calls as well as a shared service tele
80 meeting. I reviewed the resident comments on the proposed law on fencing, the police report and
81 payment vouchers. Since we are not going to meet until January again, I would like to wish
82 everyone a very safe and healthy holiday season and new year. End of report.

83
84 Mayor Letica: Thank you, Pam. Trustee Ettinger

85
86 Trustee Ettinger: Good evening, everyone. Firstly, I, too, hope that each of you and your families
87 and your loved ones are all well, safe and healthy at this time, and that you and your family have
88 had a happy and enjoyable Thanksgiving holiday.

89
90 During the month, I've had numerous discussions with Officer-in-Charge Ray Mahdesian regarding
91 a number of police related matters. I'm happy to report to you that our Police Department
92 continues to perform well and that all of our members are well and remained COVID free.

93
94 During the month, I have also had many additional conversations with the Mayor and Officer-in-
95 Charge Ray Mahdesian regarding the New York State Police Reform Act that Governor Cuomo
96 enacted requiring us to submit our plan to the Governor's Office prior to April 2021.

97

98 Officer-in-Charge Ray Mahdesian and I have continued to work on developing the plan and I am
99 happy to report to you that we have made good progress. We are now anticipating completing our
100 first draft of the plan within the next few weeks.

101
102 At that point, we will forward the plans to the Mayor and the trustees for their review and
103 comments. After receiving their comments, we will prepare a final draft of the plan that we will
104 then present to our residents at a public hearing as required by the governor's act. I'd like to, once
105 again, thank Officer-in Charge Ray Mahdesian for all his hard work in developing the plan.

106
107 Some other matters that I was involved in during the month were as follows. I reviewed the
108 proposed rule regarding fences that we will be voting on tonight as well as the correspondence that
109 we received from some of our residents. I also reviewed some correspondence that we received
110 from residents regarding some other police-related matters.

111
112 I also reviewed the Board of Trustees regular meeting minutes and finally, I reviewed the abstract
113 and payment vouchers. I, too, would like to end my report by wishing you and your families
114 continued good health and a very happy holiday season as (well as) new year. End of report.

115
116 Mayor Letica: Thank you, Mel. Trustee Burke.

117
118 Trustee Burke: Thank you, Mayor. Good evening all. During the month, I did further research on
119 the proposed fence code, reviewed the comments for the proposed fence law, reviewed the
120 meetings of the prior minutes of the prior meeting and the police report and the payment abstract.
121 That is my report, Mayor.

122
123 Mayor Letica: Thank you, Laura. Trustee Jablonski.

124
125 Trustee Jablonski: Thank you. This month, I reviewed the minutes, the abstract, the police report,
126 revisions to the fence ordinance, correspondence from residents, the firearms application, DEC
127 regulations on small game. On the drainage project, we had a meeting to review alternate solutions.
128 I reviewed revisions to the plan. And if you recall, we had four areas of concern. I am happy to
129 report that one problem at 106 Asharoken Avenue has been resolved and I would like to thank (Mr.
130 Steinlauf), the homeowner, who resolved the issue by excavating his street side lawn and filling
131 with a more porous material. Now, the water from the road runs off into the lawn and is absorbed
132 very quickly and we no longer have a puddle at that area. End of report.

133
134 Mayor Letica: Thank you very much. Attorney Bruce Migatz, can we have your report as well as the
135 zoning board and the planning board please?

136
137 Attorney Migatz: Yes, Mayor. The planning board did not meet in the month of November. The
138 zoning board did meet on November 2nd. There was one application that was heard, address was
139 119 Asharoken Avenue. It was an application for side yard setback variance for a very minor
140 extension to an existing deck. The variance request was only for one foot, nine inches and that was
141 granted.

142
143 Last month, I reported that with respect to the dock litigation, we were waiting for the appellants,
144 the dock applicants to file their reply brief. They have done so. So, the appeal is now fully briefed.
145 It has been submitted to the appellant division. But as I said last month, it could be about two years

146 due to some radical changes to the court system before that appeal is heard. And that is my report,
147 Mayor.

148
149 Mayor Letica: All right, Emily Hayes, could we have the Treasurer's report please?

150 Treasurer Hayes: The highlights for the month of November, on revenue side, there is nothing
151 unusual to report. For expenditures, the total for the vouchers in the month of November is
152 \$196,520.70. Included in the vouchers this month are invoices New York State Retirement to fund
153 the yearly pension for all employees to the village in the amount of \$166,426.
154 There will be a separate resolution to approve the vouchers and the budget transfer. And no other
155 unusual matters to report.

156
157 Mayor Letica: Thank you very much Emily. Ray Mahdesian, do you have the police report for us
158 please?

159
160 Officer-in-Charge Mahdesian: Yes, Mayor. We had a good month. I am happy to report that there
161 were no burglaries, no accidents, no injuries, nobody needed to be arrested. We issued 21
162 summonses. It was a good month. End of report.

163
164 Greg Letica: Thank you very much. Has Barry Bradley joined the call since the roll call? All right. If
165 not, we will move on to the emergency manager's report, Bill Raisch? Bill, are you there?

166
167 Emergency Manager Raisch: Yes. I have been focused predominantly on producing the public
168 employer health emergency plan as required by the governor's instructions and I can report that as
169 of about 10 minutes ago, I forwarded to our mayor for his initial purview and then it will, with his
170 concurrence, be shared more widely with trustees and the operational appointees and if need be
171 now or later, probably with legal counsel. It is started with basically a build off the template that
172 we got through NYCOM and participated or listen to their web form in this regard and have tried to
173 tailor to our village hall. There are some elements of input that I think operational personnel
174 should weigh in and I will take the lead on doing so and integrating that probably into a subsequent
175 draft without doubt down the road. Their operative deadlines for this are we should need to, by
176 February 4th, provide this to our police union for their review. Otherwise, quite frankly, I think we
177 should have Ray involved in this from the beginning. I am not sure of the differentials in
178 representation in that regard. But whatever the case, we will certainly have police input sooner
179 rather than later in that regard. And then the plan must be finalized by April 1 and subsequently
180 posted conspicuously to village employees and key contractors. That has been my predominant
181 activity in the past month.

182 I will also weigh in as much as our harbormaster was not able to join us but in my deputy
183 harbormaster capacity, I will mention two elements. We have a ditched boat; in the last major
184 storm about two weeks ago ended up on the beach on the north section of Duck Island Harbor. I
185 have contacted the owner several times on this and as of early this afternoon, she assured me that
186 they are trying to get a salvage company to come in and take care of it. I think this is important
187 because if it is there too long, it looks like she is taking on water even though she's near shore and
188 she could present an environmental challenge for the harbor itself. And then finally, we have
189 identified local use that a certain party barge is in the process of being moved out of our harbor to
190 non-village waters that should be a step progression over the next few days. End of reports.

191
192 Mayor Letica: Thank you Bill. Thank you very much, Bill. I appreciate it. One item the
193 harbormaster team should look at is we need to reappraise our five-mile an hour sign which is

194 readily up on the beach behind village wall. Some of them are in the state of major disrepair and
195 maybe we can consider a different kind of sign going forward. Maybe something like the jet ski
196 signs we used to have. So, maybe you and Joe Affrunti could look at that at some point.
197

198 Bill Raisch: Be happy to convey that to Joe and work with him as appropriate.
199

200 Mayor Letica: All right. Thank you very much. You are doing a lot of work for the village and we
201 really appreciate it. Thank you.
202

203 Bill Raisch: Sure. Thank you.
204

205 Mayor Letica: Superintendent of buildings, Doug Adil, what have you got to report?
206

207 Doug Adil: Good evening. For November's report I had various plan reviews. In one case, I issued a
208 denial letter for proposed emergency generator that was to be located within the setback at a
209 property in Asharoken Avenue. Also, I did a plan review for installation of columns and a gate to
210 544 Asharoken Avenue. The plans were approved. A reviewed construction plans for a second
211 time for a third story addition. I took part in state building code online training for an additional
212 two hours of energy conservation courses as part of my annual 24 hours of training.
213

214 I spoke with an architect who is incorporating our plan review comments that we issued and
215 incorporating them into revised construction drawings at 174 Asharoken Avenue. The foundation
216 needs to be redesigned to incorporate helical piles which are required in that specific zone. There
217 is a flood zone called VE which requires piles. I provided zoning feedback and some information for
218 various phone inquiries regarding vacant and built properties in Asharoken and I conducted an
219 inspection of a new house that has been vacant for 13 years on Pheasant Lane. I issued a report to
220 the owner indicating what work and repairs and certifications need to be satisfied in order to
221 obtain a CO. Also performed various inspections with ongoing projects which I have listed on my
222 written report that is submitted. That is my report for November.
223

224 Mayor Letica: Thank you, Doug. What is the address of the house that is looking at that second and
225 third story in Asharoken Avenue?
226

227 Doug Adil: 119 Asharoken Avenue which recently received the zoning variance.
228

229 Mayor Letica: The variance. Okay.
230

231 Mayor Letica: Marty Cohen, what has been up with the Conservation Board?
232

233 Marty Cohen: Nothing to report this month.
234

235 Mayor Letica: Thank you very much. Joe Affrunti, Harbormaster, have you joined the call? I will
236 take that as a no. All right.
237

238 Mayor Letica: Public hearing on local law number 3-2020 Chapter 125 - amending Chapter 125 by
239 adopting a new Section 125-10.A Fences and Section 125-10.B Living Fences. Nancy, would you be
240 able to please read the public notice on that public hearing?
241

242 Nancy Rittenhouse: Yes. Please take notice that a public hearing will be held by the Board of
243 Trustees of the Incorporated Village of Asharoken on Tuesday, December 1, 2020, at 6:30 p.m. via
244 teleconference. The call-in numbers are 1866-705-2554, Guest passcode is 137432 and just follow
245 the direction. The public hearing will be held to discuss a proposed local law number 3-2020
246 Chapter 125 amending Chapter 125 by adopting a new Section 125-10A Fences. Any interested
247 person is entitled to be heard upon said proposal of the law at such public hearing. The proposed
248 local law number 3-2020 can be viewed online at www.asharoken.com or copies are available at
249 village hall. Just call 631-261-7098. This is by order of the Board of Trustees of the Incorporated
250 Village of Asharoken and its dated November 10, 2020. The publication was dated November 16th
251 and it was published November 19th of this year.

252
253 Mayor Letica: All right. Thank you, Nancy. So, Board of Trustees finds that it is in the best interest
254 of the village to regulate fences to address the needs of residents for safety, privacy and
255 preservation of water use and property values without adversely affecting adjacent property
256 owners or the character of the neighborhood and to, otherwise, protect the public health, safety,
257 internal welfare of the village of Asharoken and that it is in the best interest of the village to amend
258 Chapter 125 of the code of the village of entitled, "Zoning" for this purpose.

259
260 I am going to make a couple of preliminary comments. I want to go through the previously
261 submitted written comments and then we will open it up for any comments through conference
262 call. So, for several years, the board has considered an ordinance regulating fences in village.

263
264 Because of the wide varieties of lots at Asharoken ranging from 50-foot-wide lots to multi-acre
265 properties, we had a hard time coming up with a plan that seems appropriate to the entire village.
266 The Board of Trustees decided to take a pause on that ordinance a few years ago.

267
268 So, this year, a fence was installed on a sound side 50-foot-wide lot which significantly blocked the
269 neighbors' view of the water. In response to this neighbor's concern by conducting site visits, the
270 Board of Trustees decided to revisit the fence ordinance led by Deputy Mayor Pierce and Trustee
271 Laura Burke. The village commenced writing the ordinance and after multiple reiterations, the
272 proposed local law was finalized.

273
274 The board's role is to come up with a law that simultaneously maximize water views, which we
275 believe is a significant driver of property values in Asharoken and provides privacy. This was not
276 an easy task, right?

277
278 The Board of Trustees seeks your input and comments on the proposed law. Based on your
279 response, the Board of Trustees will either decide to vote on adopting the proposed law this
280 evening or continue the public hearing, make change to the proposed law and reopen the hearing
281 for further comment at a later Board of Trustees meeting.

282
283 Prior to opening the public hearing, I am going to review the public written comments that we have
284 gotten today. So, (Mr. Caperna) wrote in favor of local law. He was concerned because his neighbor
285 installed a fence with portions which he claims are as high as eight feet which severely minimizes
286 water view. From the interior of his house which also eliminated sunset views from his deck. And
287 he was concerned because he felt that the finished side of the fence is facing homeowner's property
288 that was installed and not the neighbor's property. He also was concerned and wanted to know if
289 new fence were only put up two months ago, it's actually more than that at this point, whether that

290 fence could be subjected to new local law and not be grandfathered in simply because they installed
291 it before the deadline.

292
293 We got a couple of comments here from (Jim Reilly). He was asking how does regulating the height
294 of fence provide the privacy. He felt that if the fence is only four feet high, it does not really provide
295 privacy. And he said there was a simpler ordinance in Garden City where he once lived full time
296 and it provided zero privacy. He was questioning about regulating the height of fences to provide
297 safety and he also felt that a fence that is only for four feet high is not particularly good at providing
298 safety particularly with respect to young children and grandchildren near the sound could go over
299 that fence easily. And then he also had concerns about living fences limited to four feet as the
300 comments above, \$250 fence line. Please spare homeowners the necessity of measuring our living
301 fences. And basically, in conclusion, he was against the ordinance and his closing statements were, I
302 am opposed with the proposed code – but I am unconvinced that the proposed code does no harm.
303 (Mr. Reilly) was against the code.

304
305 (Gail Culleton) wrote, I do not believe the village regulates fences on private property. We had
306 multiple people asked questions about existing fences and whether they were grandfathered in.

307
308 The answer to that question is yes, if you have the fence right now, it is grandfathered in and the
309 law does provide maintenance of that fence so we can be kept that way unless more than 50% of
310 that fence is damaged, destroyed or need to be replaced. If more than 50% is going to be replaced,
311 then the new law would take effect.

312
313 (Joe McCarthy) also had questions about pre-existing living fences that exceed four feet of height.
314 Living fences that are currently under four feet which can grow to over four feet and (Mr.
315 McCarthy) has suggested that the same language about pre-existing fences apply to pre-existing
316 living fences.

317
318 And I did speak to our attorney, Bruce Migatz, about this and we discussed adding a clause in the
319 code that would grandfather any pre-existing living fences. And then (Mr. McCarthy) also had
320 questions about the length of the fence and he suggested that, for example, what if there is a single
321 tree or shrub planted at the property line exceeding the height restrictions, is this considered
322 offense. The answer to that is probably no.

323
324 (Jonathan Richter) also had questions about previously installed fences and he also wanted to know
325 how it works for living fences that only limits your view because there are no homes near or across
326 the avenue. Just going on here to the next one.

327
328 (Dwight Hall) also had question about existing fences and he said, am I to assume that the intent for
329 new fences – am I to assume that the intent is for new fences going forward. So, again, as I said, the
330 previously erected fence and existing fence is not included in the law.

331
332 (Alex Janow) suggested that previously under Mayor Kelly's administration, he and that mayor had
333 discussed fences and that they suggested that they draw a line between the two extreme corners of
334 the two adjacent houses and that any point beyond that line toward the water should not on the
335 fence or plantings above four feet.

336
337 So, this is pretty much what we are proposing today. So, maybe this has come to independently in
338 the past. We did not know about this. But basically, in the ordinance, what we are discussing is

339 extending fences beyond your house towards the water on the sound side – either the bay or the
340 sound side and those fences will not pass the house going towards the water on either side and
341 would not be more than four feet tall.

342

343 (Will Scalzo) had questions about an existing fence and replacing it and whether to replace it before
344 the law goes to effect, whether the law would affect it and the answer is no.

345

346 (Kathy Martin) was a former resident of the village and well-known realtor wrote that I could
347 assure you that privacy remains the primary concern for many waterfront buyers. We must be able
348 to assure them of their privacy where it may well impact the real-estate values in a negative way.
349 She said, further regulations are really needed or risk reaction to the actions of the few. So, now
350 you have contradictory ideas here that waterfront views are the primary driver of property values
351 versus privacy.

352

353 The (DeAngelo's) wrote that they were opposed to the fence ordinance. Among the things they said
354 was, we feel that this proposal is an overreach and that the concerns of those few will impose
355 unnecessary restrictions on most residents, and it's written, it would negatively impact property
356 values and may even have unintended consequences for its supporters.

357

358 He feels that other waterfront villages I believe Lloyd Harbor and Northport, they have fence
359 ordinances to be much more restrictive than the ones the village is now proposing. He is also
360 concerned that while the current administration zoning board maybe evenhanded response to
361 permit variance of requests, we have no guarantee of that from the future administrations. And
362 finally, he closed by saying, we suggest that this overly restrictive additional new layer of oversight
363 an intrusion in individual's property rights not be approved and parenthesis, (at least not hastily
364 nor as written).

365

366 And (Kristin Wenderoth) she thinks it should be a limit on a height of the natural fences unless they
367 are on the roadside or well inside the property owner's fence on this property so that they do not
368 encroach on the adjacent property and should be clear who maintains them because she apparently
369 has a living hedge next door, a living fence that has gotten quite tall over the years and much of that
370 fence is drawing into her property.

371

372 And lastly, we get comments from (Bart Kipnes) and (Andrea Davey) who said, we are strongly
373 opposed to amending local law 125 and significantly the regulation of fence height requirements.
374 Asharoken Avenue is a busy two-way road and the four-foot maximum height requirement of
375 fences located in the seaward adversely affect our safety, security, and privacy of our family.

376

377 So, those were all the written comments that we got, and I summarized the feelings of those people.
378 Nancy, what I would like to do is you have copies of all these emails that we received, if you could
379 please add them to the record as part of this evening's public hearing. That would be what we
380 would like to do.

381

382 Nancy Rittenhouse: Yes, Mayor.

383

384 Mayor Letica: Thank you very much. All right. And so, now, we will open it up for public comment.
385 As usual, we have a protocol in the village where we have a three-minute time limit. We would like
386 you to state your name and let us know what you think. We are really looking for a resident input

387 here and depending on that input, we certainly are in a position where we could consider modifying
388 this local law.
389 So, who would like to go first?

390
391 Mr. Caperna: I would like to start by saying that I think this is something that was long overdue to
392 have some sort of conformity and for it to be reasonable for both parties as far as putting any
393 property line fence up. However, you know my circumstance, you have been here, you have seen
394 the problem that I am dealing with. If someone in this community is going to deal with anyone that
395 has an existing fence, what we are saying is that we have taken care of the unborn and forget the
396 born. That is what I am reading here as far as living fences that are already in nonconformity. You
397 know the problem I have with my fence and forget that it covers my water views, it covers my
398 whole west side with an 8.5-foot fence. Recently, this person constructed another fence in front of
399 my four-foot and five-foot fences that we put up. I have about five different heights of fences that
400 are constructed along my property line. This is almost a 10-foot fence. Doug was here, he looked at
401 it, So, he knows what the conformity is. What I am trying to say is that I do not agree with the one
402 part of this code being that it doesn't take care of the existing problems, I don't want to live with
403 this problem as long as I'm going to be living in the village. I think it was done very inconsiderate
404 and it was done out of spite. If we are going to live with spite fences and then consider it prior to
405 our law, it is not protecting those of us that have been living with the problem. And mine has been
406 recent, he put this up, as you know, only in the past couple of months. So, I do not know how we are
407 going to deal with that. I would like some sort of provision put in that would deal with the existing
408 problem.

409
410 Mrs. Caperna: These are not running fences; it is sections of fences. Areas are left open and if the
411 wind is to come, it is going to blow it down.

412
413 Mr. Caperna: There is no conformity. I have 9.5-foot fence, I have a five-foot section, I have another
414 section that is six-foot and the recent one, again, is close to nine or ten feet.

415
416 There is no need for a ten-foot fence. I do not care what your privacy problems are. It is not
417 blocking out my speaking, if you are looking for something that you do not hear anyone talking
418 about, a fence is not going to constrict that. This was done strictly in a spiteful way. If we could put
419 in with the provisions, I would like to do that.

420 Mayor Letica: I certainly appreciate the position you are in and what is happening in your property.
421 I would like to ask our attorney just to respond to your concerns about pre-existing fences and
422 what the village can do in our code to address those issues because we had spoken about this, I
423 believe, yesterday. So, Bruce, if you could just discuss and let the people know what the situation
424 with pre-existing fences is and how they can be handled in the code.

425
426 Attorney Migatz: Sure, Mayor. The village is faced with constitutional issues that the courts have
427 made quite clear that zoning laws are in derogation of the common law and they cannot take away
428 somebody's property rights retrospectively.

429
430 There is a whole body of law that the case law protects, what is called prior non-conforming uses
431 whether be a fence, a legal two-family house whatever it is, they are protected.

432
433 Mr. Caperna: I live in a waterfront home paid an exorbitant amount. My beautiful views have
434 currently been blocked and my hands are tied from the village's perspective with the old law and

435 the new law. I just do not feel that we should have to live with this constricting our views for the
436 near future.

437
438 Mayor Letica: We understand your point. Please allow the attorney to finish what he is saying,
439 okay? You have given your testimony and we understand it, we respect it, but allow Bruce to finish
440 what he is saying and then we are going to give somebody else a chance to speak, please.

441
442 Attorney Migatz: The villager's hands are tied. As much as they may like to make this retro-active
443 they cannot. They would be defeated in court. What they can do, and case law supports a provision
444 that amortizes somebody's investment over a period of years. Hypothetically speaking, the code
445 could provide that in X number of years for any prior non-conforming fence must come down. That
446 time period has to be in the eyes of the courts sufficient enough for somebody to amortize their
447 investment so it's not a taking of their property. So, I can't answer how many years a court might
448 find sufficient for a fence but that is something that the village could look into.

449
450 Mrs. Caperna: That's fair.

451
452 Mayor Letica: All right. Thank you for that answer, Bruce. Again, please, if you're not speaking, put
453 your phone on mute.

454
455 Nathaniel Corwin: Yes. Mayor Letica, this is Nathaniel Corwin speaking.

456
457 Mayor Letica: Good evening.

458
459 Nathaniel Corwin: So, I am with the firm Meyers in Garden City and we represent the Eaton's Neck
460 LLC which owns what we all commonly called Morgan Estate and I have two comments. I will give
461 them both to you and they relate to this proposed ordinance as it relates to that property. As I read
462 or as we read the law, it seems to address problems that are more likely to occur. For instance,
463 down on the Asharoken Strip and from the perspective of Eaton's Neck LLC, we have basically a
464 property that is used for horse training. There is fencing in the interior of the property corrals,
465 horse fencing, split rail fencing and what we respectfully ask the board to consider is to reconsider
466 this – the provisions of this proposed law to make exceptions for those kinds of fencing maybe on
467 an interior lot or the type of fence that clearly is not something that would obstruct anybody's view
468 and is meant for something for a completely different purpose. I think that could be done in several
469 ways either by designating zoning differences or property in an agricultural zone and/or the type of
470 fencing.

471
472 The second relates to the distance provision between the paving and the road. This goes back to
473 sort of an incident that took place several years ago before any of the board members – present
474 board members were on the board. But there was a repaving that was done up around the bend
475 there and the contractor, I guess, inadvertently took down part of the existing fencing and actually
476 paid over part of the Morgan Estate property and that fence was never put up.

477
478 There were discussions between the village and Eaton's Neck LLC at that time as to how to address
479 the problem. Its kind of died on the vine. But the property line goes right up to the road. There is
480 not an embankment there and perhaps the board might consider not having a hard and fast rule of
481 10 feet between the property line and the roadway based upon the circumstances of the case. So,
482 those are my items that I would like to ask the board to consider and if there is anything that I can
483 respond to, I would be happy to try to do that.

484
485 Mayor Letica: Yes. I'd like to ask you a question in that regarding any fence on the interior part of
486 Sand Piper Farm. Is there a specific part of the ordinance that you feel is causing encumbers on you
487 or can you tell me like what kind of a fence that you guys might need that the ordinance does not
488 allow?
489

490 Nathaniel Corwin: Well, let's use this as an example, let's say if there's a Paddock area with a split
491 rail fence around it and let's say that for some reason it has to be expanded by 20 x 30 and that
492 would require permitting, a survey and the whole procedure that's laid out in the fencing
493 ordinance. Nobody would be affected, it would not affect anybody's view, it would only affect the
494 horses. And so, that is an example. There are also – I'm not sure if a jumping section would be
495 determined to be or not be fence. Those are moved around.
496

497 Greg Letica: You mean like a jumping obstacle?
498

499 Nathaniel Corwin: Yes.
500

501 Mayor Letica: Yes. No, this code is not to regulate the horse jumping obstacles. I assure you of that.
502

503 Nathaniel Corwin: So, I think it's probably really mostly interior fencing. But I would also mention
504 that even with a split rail type horse fence that goes around the exterior of the whole property, we
505 all know what they look like. They are usually maybe 4.5 feet high and they have a couple of maybe
506 two or three split rail fence posts that go horizontally, and they would not affect anybody's view of
507 anything. And I think that in substance that this law quite appropriately tries to address the kind of
508 situation that Mr. Caperna has gotten in. But this type of fence, the split rail fence would be dragged
509 into this when the point of the law seems, to me at least, to be trying to address something
510 completely different.
511

512 Mayor Letica: Okay. I understand what you are saying and particularly your comments about let's
513 say enlarging a paddock for horses or something. Well within the interior of 400 acre parcel and
514 land. Maybe you could just propose some other language or maybe you could just really kind of
515 quantify maybe this in writing so we can consider it as well. But I understand exactly what you are
516 saying.
517

518 Mayor Letica: Thank you so much and I appreciate your input. Would anybody else like to
519 comment this everything?
520

521 Bill Raisch: Actually, Bill Raisch here, if you could.
522

523 Mayor Letica: You may, Bill.
524

525 Bill Raisch: Thank you. And I just have – I want to make an observation, we have – by zoning, we've
526 acknowledged that we have distinct living environments within the village and I think, and this is
527 my guess and I don't know specifically, but that most of the instances relative to visual blights and
528 so forth that we've heard about recently with regard to trailers and now with the fencing and so
529 forth are most likely focused as, (Nate) was mentioning, on the strip essentially, on Zone A which is
530 10,000 square foot versus Zone B which is four times that one acre, 400,000 – 40,000 square feet or
531 Zone C, two acres. And I'm going to suggest that certainly I'm empathetic with regard to the
532 concerns along the strip. I think some of these concerns may be are not as applicable to the

533 hinterlands if you will, here I am, that have more substantial already as a requirement. We have
534 some more side yards, more significant front yards in some cases and rear yards. And many of these
535 concerns I think are not as or even significantly applicable to Zone B and Zone C. And I would
536 suggest that these regulations initially be focused on Zone A. If there is some lessons to be learned
537 on Zone B and C over time, terrific. But my suggestion is that those of us on an acre, two acres don't
538 have the same concerns in large part and that as such, we might consider kind of narrowing this
539 down to Zone A focus. Thank you.

540

541 Mayor Leticia: Thank you very much, Bill. I appreciate those comments. Anybody else?

542

543 Chris Peterson: At 127 Asharoken Avenue.

544

545 Mayor Leticia: Good evening.

546

547 Christine Peterson: I'm fine. I have a concern about the language of living fence. I think it really
548 needs to be defined in some way what a living fence is because for instance what if your neighbor
549 puts up a row of Leyland cypresses on your property line, that Leyland cypress is going to get to the
550 20 to 25 feet in diameter and who's supposed to maintain then that fence that grows also up to 30
551 feet or more tall. I think that this may be something that should have been addressed previously
552 because now you have a shared fence but that you are now having to maintain because it is going
553 over on your property. The other thing is that we have mixed shrubbery along our property lines.
554 Is that considered a fence? What is considered a fence, a living fence? So, I would really feel that
555 needs to be defined. I mean, you are making regulations for it, but you haven't really defined what
556 it is. It needs to have more of a definition.

557 Also, I feel as far as the four-foot height, if you have a small child, I agree that that is going to be
558 inadequate to protect the child if you're living on a waterfront property and you want to try to put a
559 fence that will protect your child in some way. You may need something fuller.

560 Why not consider using four-foot solid fence or something that you cannot see through and on top
561 of that, allow for higher fence that you can visibly see through. It really may be the best of both
562 worlds in my opinion. I have a tremendous garden, acres of cultivated gardens that I'm protecting
563 from deer and I'm doing it with sprays. But someday down the line, the way things are going, I
564 might want a proper deer fence. And I know that you have provisions for that but what happens to
565 that deer fence when it gets in front, the beach side of my property. Am I allowed to put up my
566 eight-foot fence up to the edge of my – wherever I want to end it? I mean, I'm not going to put it
567 down on the beach obviously and I know you addressed the beachfront as being a four-foot high
568 and that I would have to deal with. But think about the types of fences that you can have fences that
569 are visible to see through that can still protect your property and your children.

570

571 Mayor Leticia: All right. Thank you.

572

573 Steve Widom: We have over 15,000 daylilies that we raise here, okay, it's pretty garden, and the
574 most interesting is that in any one time, we'll have four, five, six deer on the property eating our
575 plants. Very important to us to be able to enclose the area most likely within the next year or two
576 with some form of deer fencing. And the deer – the fencing would have to also be on the seaway
577 side of the property because the deer come on the actual beach on the baseline then come over onto
578 the property. So, four feet, of course, is not going to be enough to be able to control that. So, as the
579 law per se is written at the moment, it really isn't taking into account some of these things that we
580 see as possible problems for the future. So, I'm not in favor of it at the moment the way it's written.

581

582 Mayor Letica: Okay. Very good. But, I mean, obviously, look, you – and it certainly says the law get
583 modified going forward. But it is certainly good to put up with your fence. I mean, it is worthy
584 enough to get special use permit for it. But there was a provision for getting a special use permit.
585

586 Marianne Connelly: Yes. This is Marianne Connelly. I know you have already mentioned, Mayor,
587 that someone wrote about the strange treatment or the different treatment of living fences versus
588 man-made fences and I'd like to say that we kind of agree with that person that it seems odd that
589 living fences would not be grandfathered in whereas man-made fences are. We were walking on
590 the beach on the bay side last week and it seems to me that probably two thirds of the houses had
591 trees that would be in violation of this statute, this new regulation as it's now written and I don't
592 understand why that many people would have to be tearing down trees when we're not tearing
593 down man-made fences. It seems a bit draconian to me. And I guess the second point, a little bit
594 more minor but still also relevant is that if you had a man-made fence that was in violation of this
595 new code right next to a living fence, the man-made fence could be kept up and the living fence
596 would have to be taken down. And I'm not sure I understand what the wisdom in that would be.
597

598 Bruce Migatz: Mayor, May I just comment on that?
599

600 Bruce Migatz: All right. The way the code is drafted, the living fence is by law grandfathered in.
601 What the code has done with respect to nonliving fences is to put some restrictions on the man-
602 made fence being rebuilt. So, the living fence is grandfathered in as the law is presently drafted.
603 There are no restrictions on that. The restrictions are on the grandfathered rights of man-made
604 fences. I hope that clarifies it for you.
605

606 Christine Peterson: Then you really need to do something. So, if a Leyland cypress falls down this
607 winter, what then – is that be allowed to be replaced with another Leyland cypress that is going to
608 go higher than the height that you said that the living fence can be. Would that then have to become
609 just the four-foot-high thing when they have a whole amount of bushes that are 25' or 30' already.
610

611 Mayor Letica: Obviously, I mean, that is totally similar if one section of a fence falls that is pre-
612 existing. One section falls. You can simply replace it in kind with what's there. If one Leyland
613 cypress would fall, you can certainly replace it with another Leyland cypress.
614

615 I want to thank you of your comments. All these comments that you have raised about living fences
616 is certainly something we have to really look at. The intent of this is not to start cutting down
617 existing shrubbery or bushes in between people's houses. Absolutely not. That is not the intent of
618 this law. And it may need a little clarification so it's clearer to that effect. But that is not what we
619 are looking to do in any manner of speaking whatsoever.
620

621 Christine Peterson: You also must consider how far your living fence is from your property lines.
622 For instance, I don't have a living fence and so much, but I planted a shrubbery. The shrubbery
623 comes in say 15 feet from my property line. It, in effect, creates a living fence. And you're talking
624 about privet hedges that you pruned off to be a fence and arborvitae that you keep in a very tight
625 wall. You really need to define that because they are totally different animals.
626

627 Mayor Letica: You're right. Those are good points. So, as far as living fences go, I think we have
628 good idea here on what the residents were saying in regard to living fences.
629

630 Lou DeAngelo: Good evening, Greg and trustees. 116 Asharoken Avenue. I know that many in the
631 community have voiced concerns regarding the proposed fence ordinance, which would affect
632 Asharoken residence from this point forward. Thank you, Greg, for taking the time to speak with
633 me at length about this a couple of times. Kristin and I also put our concerns in writing recently to
634 you and the other trustees outlining significant concerns that perhaps require some attention on
635 the part of the crafters of this ordinance and on the part of the trustees. I'd like to reiterate that the
636 proposal generally speaking appears to be an overreach. I reviewed and lived with the fence
637 ordinances or lack thereof in Lloyd Harbor, Laurel Hollow and Northport villages. None has the
638 restrictions that this ordinance does. Specifically, as it relates to the restrictions on homeowners on
639 Asharoken Avenue both at the bay and sound sides. Additionally, while these two bodies of water,
640 the bay, and the sound, are delineated relative to more restrictive height restriction, but there is no
641 mention of our third body of water, Duck Island Harbor. All other Asharoken village codes when
642 addressing waterfront mention all three. I am hoping this is not intentional on the part of the
643 crafters of this proposed ordinance and maybe just an oversight. In addressing the permit variance
644 requests, the proposed ordinance purports to legislate substantial obstruction of water views. I'm
645 sure that the board is aware of the legal definition of substantial. How would the board or zoning
646 board attempts to rule on this? Whose judgment will be used to determine substantial?
647 In closing, please consider the overly restrictiveness of this proposed ordinance, consider that the
648 proposal imposes restrictions upon homeowners on two of our village's bodies of water but not on
649 the third, and that none of the other villages mentioned earlier have such specifically delineated
650 waterfront restriction. Again, I realize that all of this is to affect fence restrictions, living fences
651 moving forward but shouldn't the ordinance be fair and cognizant of privacy, which also greatly
652 affects property values as well as water views? Four height restrictions in water front living areas
653 will preclude this. My hope is the board will take the time to consider the input received this
654 evening before pushing the ordinance through. Thanks very much for your time.

655
656 Mayor Letica: Thank you very much for your comments this evening. Anybody else who would like
657 to comment this evening?

658
659 Ron Steinlauf: Yes, Mayor. This is Ron Steinlauf from 106 Asharoken and how are you this
660 evening?

661
662 Mayor Letica: I would like to say thank you again for what you did to help alleviate the drainage
663 problem along Asharoken Avenue in front of your house. That was very effective and very nice of
664 you. We really appreciate it.

665
666 Ron Steinlauf: Clarification, please, is it from – I guess you would say the sea wall or the bulkhead
667 to the house that the four-foot restriction would be in place?

668
669 Greg Letica: Yes.

670
671 Ron Steinlauf: Which is the setback because some homes are set back differently than others where
672 perhaps it may not create a visual obstruction if you want a taller fence near to the home versus
673 obstructing water views.

674
675 Mayor Letica: Yes. That is all true. And it is something that we considered, and we got kind of
676 stuck. We are trying to figure out how to quantify that because every house is different. So, that's
677 how we came up with the four-foot height from the house to the seawall unless you get special use
678 permit.

679
680 Ron Steinlauf: Okay. I know another waterfront community in other parts of the country, they do
681 have setbacks from that seawall X number of feet high for X number of feet in length and so forth. I
682 just wanted to see if that was considered.

683
684 Mayor Letica: Yes, it was. Have a good evening. Anybody else? All right. Then I would like to make
685 a motion to close the public hearing.

686
687 Mayor Letica made a motion to approve; seconded by Trustee Ettinger.

- 688 Trustee Jablonski AYE
- 689 Trustee Burke AYE
- 690 Trustee Ettinger AYE
- 691 Deputy Mayor Pierce AYE
- 692 Mayor Letica AYE
- 693 Motion Carried

694
695 Mayor Letica: Thank you to everybody who spoke this evening as well as everybody who sent in
696 written comments. This is what we are looking for as Board of Trustees and really do appreciate all
697 your input. I will turn the meeting over to Nancy now for our resolutions.

698
699 Nancy Rittenhouse: Okay. Thank you, Mayor

700
701 **Resolutions:**

702
703 **Resolution (2020-140)** Be It Resolved that the Village Board does hereby approve the vouchers
704 for the month of November 2020 in the amount of \$196,520.70

705
706 Mayor Letica made a motion to approve; seconded by Trustee Ettinger.

- 707 Trustee Jablonski AYE
- 708 Trustee Burke AYE
- 709 Trustee Ettinger AYE
- 710 Deputy Mayor Pierce AYE
- 711 Mayor Letica AYE
- 712 Motion Carried

713
714 **Resolution (2020-141)** Be It Resolved that the Village Board does hereby approve budget
715 transfers for November 2020.

716
717 Trustee Ettinger made a motion to approve; seconded by Trustee Burke.

- 718 Trustee Jablonski AYE
- 719 Trustee Burke AYE
- 720 Trustee Ettinger AYE
- 721 Deputy Mayor Pierce AYE
- 722 Mayor Letica AYE
- 723 Motion Carried

724
725 **Resolution (2020-142)** Be It Resolved, that the Village Board, does hereby approve the scheduling
726 of a public hearing on Tuesday, January 5th, 2021 at 6:30pm at Village Hall for a proposed local law

727 authorizing a property tax levy in excess of the limit established in General Municipal Law §3-c for
728 the fiscal year commencing 6/1/2021.

729

730 Mayor Letica made a motion to approve; seconded by Trustee Ettinger.

731 Trustee Jablonski AYE

732 Trustee Burke AYE

733 Trustee Ettinger AYE

734 Deputy Mayor Pierce AYE

735 Mayor Letica AYE

736 Motion Carried

737

738 **Resolution (2020-143)** Be It Resolved that the Village Board; does hereby approve the Firearms
739 Permit application with the new approved conditions for John Rittenhouse located at 285
740 Asharoken Ave, for target shooting and hunting vermin` (0401-005-02-007-001) & (0401-005-02-
741 005-000), location open field consisting of 21 acres.

742 Trustee Jablonski made a motion to approve; seconded by Deputy Mayor Pierce

743

744 Mayor Letica: We need to discuss this a little bit. Normally, I do not recollect us issuing a permit for
745 a rifle. We have issued permits for shotguns. So, I think that is a concern here. I know that it is 22
746 acres. I think that secondarily, as far as hunting goes, and I'd like Ian just to fill us in on the rules
747 and regulations for hunting, I think you need to have a hunting license to go hunting and I am sure
748 that their regulations is for what is allowed. So, Ian, if you could maybe give us a little update on
749 that.

750

751 Trustee Jablonski: Yes. Mayor, that is true. I think the spirit of this application is that the resident
752 is asking permission to discharge a firearm on their property. The rules regulating that are 500 feet
753 from a dwelling. Obviously, 21 acres is not an issue.

754 The DEC regulates hunting. These hunting seasons are for different animals, those in the small
755 game; being rabbit, squirrels, raccoons, fox, some weasel, and all of those are allowed to be hunted
756 on Long Island. There are seasons for each of these animals generally from November 1st to
757 February 25th. Obviously, the hunter would be required to have a New York State hunting license.
758 But it's not the village's jurisdiction to regulate hunting nor enforce it. So, I would suggest here that
759 what we should be looking at is whether we would like the resident to be allowed to discharge a
760 firearm on 21 acres.

761

762 Mayor Letica: Do we have any idea how dangerous the range of a 22-caliber rifle is?

763

764 Trustee Jablonski: Well, the DEC requires 500 feet from a residence to discharge a firearm.

765

766 Mayor Letica: I don't know if John Rittenhouse is on the call this evening.

767

768 John Rittenhouse: I am on, Greg. Yes, I am here.

769

770 Mayor Letica: Maybe, John, could you fill us in on what it is that you want to hunt for on your
771 property as well as where you intend to do this hunting.

772

773 John Rittenhouse: Sure. Well, as you know, I have 21 acres of property and really, I have no
774 neighbors. My neighbor is Duck Island Corporation property which I own which as well and
775 nobody is on it. I want a firearms permit really to protect my property and not necessarily hunting

776 if you would think of that. But, of course, I need to comply with DEC regulations which are separate
777 in the and, of course, I would comply with those rules.

778

779 Mayor Letica: When you say you want a firearm to protect your property?

780

781 John Rittenhouse: Right.

782

783 Mayor Letica: What are you protecting your property from?

784

785 John Rittenhouse: Varmint.

786

787 Mayor Letica: All right. And do you presently have a hunting license?

788

789 John Rittenhouse: Presently, no.

790

791 Mayor Letica: All right. Does any of the board members have any questions about this? I am sitting
792 here and trying to look up information. It says here at the DEC website that small game hunting
793 consists primarily of a two-month season for stock pheasants. They are also open seasons are also
794 open to vary amounts of woodcock, crow, fox and raccoon. So, I mean, any of these would you
795 quantify at varmint but would have to only be done within seasons that allow for that to happen as
796 well as would only be allowed for the type of animals that the DEC allows hunting on as well.

797

798 John Rittenhouse: Yes. Absolutely right, Greg.

799 Mayor Letica: Yes. I mean, what I think that we should do is I think that I would suggest just tabling
800 this this evening and have you resubmit a permit application that quantifies when you want to do
801 this and what you want to do it for in a manner that is consistent with the DEC rules and then I
802 think we could go forward with considering it for approval because I think right now, your
803 application is very nonspecific.

804

805 John Rittenhouse: I think it is specific. I mean, you are talking about separate set of rules that I
806 need to follow.

807

808 Greg Letica: You are permitted by the New York State DEC to hunt whatever from November 1st to
809 December 1st. Somebody hears a gun go off on your property, it is somewhat reasonable to assume
810 your hunting. On the other hand, other times of the year, guns are going off out there and we don't
811 know when you're legitimately allowed to hunt or not hunt, and people call the police either
812 complaining or concerned. I think we should know at least a little bit more about what you are
813 supposed to do and when it can be done. I mean, we really have not had a chance to look through
814 this and even though when hunting season is. I mean, originally, when you submitted your
815 application, I originally just thought you were going to do skeet shooting up there, I did not realize
816 that you have some problems with whatever you are having problems with.

817

818 Trustee Jablonski: Yes. I just like to say the applicant noted target shooting and I do not know why
819 there would be any reason why that would be restricted to any time of the year.

820

821 John Rittenhouse: That was my next point. Thank you, Ian. I mean, I can put that on the application
822 in more detail if you like.

823

824 Mayor Letica: Yes. Is it going to cause you any kind of really inconvenience if we just kind of make
825 this a little bit clearer and revisit next month?
826

827 John Rittenhouse: No.
828

829 Mayor Letica: So, why don't we table this for next month does the board agree?
830

831 Trustee Burke: I think the application is fine the way it stands but I have to recuse myself from this.
832 It meets our current code, and I don't see any reason to table it.
833

834 Trustee Jablonski: I agree.
835

836 Mayor Letica: Trustee Ettinger, do you have any input.
837

838 Trustee Jablonski: At the end of the day, to shoot a 22 on 20 acres, it shouldnt not be a concern I do
839 not think anybody would even hear it.
840

841 Trustee Ettinger: I would prefer that we table it. It came as a surprise to me. I did not see this until
842 yesterday when Nancy sent out the first draft of the agenda and then I saw late today like a copy of
843 the application and then I saw what you said, Ian, and I'm not disagreeing that what - that seems to
844 be okay but I think if we can postpone it until the January meeting, I think it will give us all more
845 time to review it and feel more comfortable
846

847 Deputy Mayor Pierce: Since Mr. Rittenhouse does not have an issue with waiting till January then I
848 agree to postpone it until then.
849

850 Trustee Burke: Bruce, do you have a comment on this if you don't mind my asking?
851

852 Attorney Migatz: A comment on whether it should be tabled or not?
853

854 Trustee Burke: Yes. If the permit should be approved as it stands, is it consistent with our code. I
855 mean, we should check the code.
856

857 Attorney Migatz: Well, I did look at the code while you were speaking about this. The only
858 regulations you have are for skeet shooting. You do not have regulations for target shooting or for
859 hunting. Any permit you would give would still be subject to any other law that are applicable. Here
860 you would have to get a hunter's license. If you were to approve, this you are just approving an
861 exception to the prohibition to have a firearm permit and not for what it can be used for. But since
862 Mr. Rittenhouse says there is no inconvenience for him, I certainly don't see the harm in taking a
863 closer look at this.
864

865 John Rittenhouse: I certainly would prefer, Mr. Migatz, to have it tonight. But I am being respectful
866 to the Mayor.
867

868 Mayor Letica: With the hunting aspect of this, does the DEC have authority over hunting?
869

870 Attorney Migatz: Yes. The DEC has preempted the field as we say when it comes to regulating
871 hunting. That is not a village concern; the concern is what type of firearms does the applicant want

872 to use and if it is appropriate and safe. That is really what your decision is. How it is used for
873 hunting is subject to DEC regulations.
874

875 Mayor Letica: Yes, that was my concern which I raised earlier was that we are dealing with a rifle
876 here. I do not know very much about guns; I do know the range of a rifle is substantially greater
877 than a range of a shotgun. I really did not have time to look into this, whether the DEC allows
878 hunting. What I would like to know is what you want to hunt and is that legal on Long Island using a
879 rifle. You cannot use a rifle to hunt deer.
880

881 Trustee Jablonski: No. But you cannot use a bow an arrow to hunt a squirrel. You would use a rifle or
882 shotgun or a pistol which are all legal implements to hunt small game and they have a season for
883 each of those. The effective range for 22-caliber rifle is 150 yards, practice tends to be less than
884 that, after 150 yards for ballistics will pretty much drop and a bullet falls to the ground.
885

886 Trustee Burke: In our application permit, it does say purpose for permit (target, clay pigeon,
887 hunting etc.).
888

889 Mayor Letica: Well, I mean, I would be okay with approving this firearm's permit even for target
890 shooting because of the size of the property and then we can revisit the hunting aspect of it next
891 month.
892

893 Trustee Jablonski: Yes. What Bruce is saying, we cannot restrict that. So, really, essentially, you are
894 approving the discharge of a 22-caliber rifle on 21 acres.
895

896 Trustee Burke: Right. That is all our jurisdiction is.
897

898 Mayor Letica: All right. I still would like to look into the ballistics of a 22-caliber rifle before I
899 approve it. This is how I feel. So, I am in favor of waiting a month on this.
900

901 Mayor Letica: All right. So, we have three trustees that would like to wait a month on this. I mean,
902 we have a second and we have a motion. So, I mean, we can call a vote on this. But I think that as of
903 right now, it looks like tabling it is probably the most sensible idea. I think if we know a little bit
904 more about 22-caliber rifle and what risks it carries or does not carry, I think we could make a
905 better informed and then make a decision
906

907 Trustee Burke: I've already stated my opinion.
908

909 Mayor Letica made a motion to table resolution 2020-143 to January 5th, 2020, seconded by Trustee
910 Ettinger.

911 Trustee Jablonski	AYE
912 Trustee Burke	Abstain
913 Trustee Ettinger	AYE
914 Deputy Mayor Pierce	AYE
915 Mayor Letica	AYE
916 Motion Carried	

917
918 Mayor Letica: Thank you. So, the motion carries. Four-zero with Trustee Burke recusing. John, we
919 can talk about this during the month and we should be able to, hopefully, work out something that
920 is going to work for you.

921 John Rittenhouse: All right. Thank you.

922

923 **Resolution (2020-144)** Be It Resolved, that the Village Board of the Village of Asharoken, does
924 hereby approve the local law 3-2020 Amending Chapter 125 by Adopting the new section 125-10.A
925 "Fences" and a new section 125-10.B "Living Fences".

926 Deputy Mayor Pierce made the motion, Seconded by Trustee Burke.

927

928 Mayor Letica: So, we had a lot of comments on this this evening. Do we think it is prudent to take a
929 vote on this this evening? Do we think we should try to reflect with some of the people talked about
930 this evening and maybe make some modifications to the ordinance?

931

932 Pamela Pierce: The village attorney weighed in on living fences are grandfathered in and when
933 Laura and I, were going over this with him, we said, yes, all the living material stays. Personally, I
934 like to take a vote on it and then if we must make any amendments later on, we can do so.

935

936 Trustee Jablonski: Yes. we have been discussing this for several years and I don't want to belittle
937 any of the work that Pam and Laura have done on this so far. It has been a tremendous amount of
938 work and it's come a really long way. But my feelings are still running the same, I feel that residents
939 have the right to protect their property, their safety, their health, and their privacy. And I also feel
940 that the permit survey, the affidavit, the fees, puts an undue burden on both the residents and the
941 village. That is the end of my comments.

942

943 Trustee Burke: I respect that, Ian, and I felt that way after 2014 when we tabled it then. But there
944 have been too many egregious situations that have happened in the village that we can't ignore it
945 anymore. I do not think it's fair to the majority of these residents not to have a fence permit in
946 place. I really think that it will help things in the long run. There has been too many situations and
947 we cannot ignore it. We had one family move out of the village because of this. But they were
948 astonished that we did not have a fence permit after their neighbor installed a fence. Maybe we
949 should consider tabling it and adding some of the considerations we heard tonight regarding the
950 larger properties and adding some exceptions to the law, I don't know. We have talked about that,
951 Bruce, at some point.

952

953 Attorney Migatz: One thing you have to consider is that if you table this until next month, it is
954 possible that you're going to have a rush of people putting up fences of all different heights before
955 you pass a revised version of this in January. Strictly from a legal point, all right, strictly being
956 objective as an attorney, I think the wise thing to do, if you are concerned about spite fences and
957 that is a term that is used in case law adopt this tonight and then you can always repeal it all
958 together at a later meeting or you can revise it at a later meeting. But at least it would prevent
959 somebody in the next 30 days running out to Home Depot and putting up a spite fence.

960

961 Trustee Burke: All right. Well, then that is the way I think we should go.

962

963 Mayor Letica: Mel, do you have any comments?

964

965 Trustee Ettinger: I do, too. I think that was a good comment, Bruce. I agree. I think we should vote
966 on the resolution. But I think during the next 30 days until the next board meeting, Laura and Pam
967 in particular the authors of the law should put your heads together and then we all should review
968 the comments that were made, the suggestions that were made, review with Bruce and if necessary,

969 modify the law at next month's meeting or at least advise the residents that we are working on it
970 and if we can't do it by January, then we'll do it by the February meeting. That is my opinion.
971

972 Trustee Burke: I don't think we should a deadline though because it's going to take as long as it's
973 going to take.
974

975 Trustee Ettinger: If not January, then February. But just to acknowledge. I mean, many of the
976 comments that were made today I agree with, okay?
977

978 Trustee Burke: Yes, I agree. There were some good comments.
979

980 Trustee Ettinger: I don't want all of the people that took the time to respond to us and then to
981 speak to us tonight to think that we ignored them. We did not, at least I didn't and I'm sure the rest
982 of the board did not as well. So, let's acknowledge that many of the people that's spoken and/or
983 have written to us had some valid comments that we're going to take into consideration and some
984 of them, we will change and reflect in the law but we're going to pass the law and then we will
985 modify it whether it's next month or the month after or the month after that.
986

987 Attorney Migatz: I want to assure everybody that my comments are not directed to anybody who
988 made comments tonight. I am not alleging that or suggesting that anybody who spoke tonight is
989 going to run out and put up a spite fence. I am strictly talking objectively. I thought the comments
990 were very good comments and they should be considered. But just from a legal point, that is why I
991 recommended what I recommended.
992

993 Mayor Letica: Bruce, I think we're in agreement with you and thank you for your guidance as usual.
994

995 Attorney Migatz: Thank you.
996

997 Mayor Letica: I wanted to just say that my initial inclination was to wait but having heard what
998 Attorney Migatz had to say and the ability of the village to then amend this code or if need be just
999 retracting from the entire code, it has changed my mind and I think that voting for this this evening
1000 is a smart idea. We have it on the books, and we can come back and take a look at it. I particularly
1001 have some major issues with the living fence part of this and I'd like to see that really tidied up. I
1002 think some of the questions brought up are very, very important. But at this point, I'm going to go
1003 forward with this, with the caveat that we're going to take a real hard look at this again based from
1004 the comments that we got both written and verbal form this evening. So, having said that, I'd like to
1005 ask Nancy to please call the roll.
1006

1007 Nancy Rittenhouse: Yes. Trustee Pierce made the motion, seconded by Trustee Burke.

1008 ROLL CALL:

1009 **Trustee Jablonski** **NAY**

1010 **Trustee Burke** **AYE**

1011 **Trustee Ettinger** **AYE**

1012 **Deputy Mayor Pierce** **AYE**

1013 **Mayor Letica** **AYE**
1014

1015 **Resolution (2020-145)** Be It Resolved, that the Village Board does hereby accept the donation of a
1016 beach lot (401-004-01-013.000) from owner June E. Christensen.
1017

1018 Mayor Letica made a motion to approve; seconded by Trustee Ettinger.

1019 Trustee Jablonski AYE

1020 Trustee Burke AYE

1021 Trustee Ettinger AYE

1022 Deputy Mayor Pierce AYE

1023 Mayor Letica AYE

1024 Motion Carried

1025

1026 **Resolution (2020-146)** Be It Resolved, that the Village Board does hereby authorize the Mayor to
1027 sign an Emergency Pick-Up agreement between the Village of Asharoken and Winter Bros. Hauling
1028 of Long Island, LLC for \$1,250.00 per day without tipping fees, in form to be approved by the Village
1029 Attorney.

1030 Mayor Letica made a motion to approve; seconded by Deputy Mayor Pierce.

1031 Trustee Jablonski AYE

1032 Trustee Burke AYE

1033 Trustee Ettinger AYE

1034 Deputy Mayor Pierce AYE

1035 Mayor Letica AYE

1036 Motion Carried

1037

1038 **Resolution (2020-147)** Be It Resolved, that pursuant to Village Code Section 20-1, the Village
1039 Board does hereby establish a fence permit application fee of \$75.00.

1040 Deputy Mayor Pierce made a motion to approve; seconded by Trustee Burke.

1041

1042 Trustee Ettinger: How did we come up with the fee?

1043 Deputy Mayor Pierce: Nancy Rittenhouse did some research, and the fees range from \$500 to \$50
1044 we thought \$75 would be appropriate.

1045

1046 Trustee Jablonski NAY

1047 Trustee Burke AYE

1048 Trustee Ettinger AYE

1049 Deputy Mayor Pierce AYE

1050 Mayor Letica AYE

1051 Motion Carried

1052

1053 **Resolution (2020-148)** Be It Resolved that the Village Board does hereby authorize the Village
1054 Clerk to request (Request for Proposals) for the drainage plan, drawing no. C101.00 by Newport
1055 Professional Engineering, PC, for location 103/105 Asharoken Avenue.

1056 Mayor Letica made a motion to approve; seconded by Trustee Jablonski.

1057 Trustee Jablonski AYE

1058 Trustee Burke AYE

1059 Trustee Ettinger AYE

1060 Deputy Mayor Pierce AYE

1061 Mayor Letica AYE

1062 Motion Carried

1063

1064 Mayor Letica: We can go into public session for other matters. As usual, our policy is three minutes
1065 per person. Is there anybody out there who would like to comment this evening?

1066

1067 Mrs Caperna: Did you pass it?
1068
1069 Mayor Leticia: Yes. All got passed but we are going to go back and look at certain aspects of it based
1070 upon comments that people made this evening.
1071
1072 Mrs. Caperna: Thank you very much. Thank you, guys.
1073
1074 Nadine Dumser: Good evening. I have some issues with the firearms permit. Basically, you spent a
1075 lot of time on the fencing permit and being very, very specific. But I feel that the firearms permit is
1076 not specific at all. I mean, we do not know what or which varmints we're talking about.
1077
1078 Mayor Leticia: I beg to differ because we tabled it for a month. So, we could get Mr. Rittenhouse to
1079 give us some more details delineating what he is intending to hunt on his property and when he is
1080 going to do it.
1081
1082 Nadine Dumser: But you were ready to pass it. It seems that that really isn't going into detail then.
1083
1084 Mayor Leticia: We didn't.
1085
1086 Nadine Dumser: And I also feel that he should have a DEC permit before having you people approve
1087 it.
1088
1089 Mayor Leticia: It's a very reasonable point and we're going to look into that as well because we
1090 didn't have a lot of time to review it.
1091
1092 Nadine Dumser: And a 22-caliber rifle will travel 2000 yards which is 1.6 miles.
1093
1094 Mayor Leticia: And again, that was one of my concerns and I hope we are going to look into that
1095 during the month as well. So, I appreciate you bringing that up.
1096
1097 Nadine Dumser: So, that could be possibly dangerous, and I hope you will take all those things into
1098 consideration.
1099
1100 Mayor Leticia: Thank you. Anybody else?
1101
1102 Mayor Leticia made a motion to exit public session, seconded by Trustee Ettinger.
1103 Trustee Jablonski AYE
1104 Trustee Burke AYE
1105 Trustee Ettinger AYE
1106 Deputy Mayor Pierce AYE
1107 Mayor Leticia AYE
1108 Motion Carried
1109
1110 Mayor Leticia: I just want to wish everybody a very Happy Hanukkah and Merry Christmas and a
1111 very happy, healthy, and safe New Year. Hopefully, it is going to be a much better year than 2020
1112 was. I don't think anyone is going to be sad to see 2020 rollover to 2021. Thank you again for
1113 joining us this evening. It was quite a long meeting. It was a very productive meeting. The
1114 comments we got were very, very helpful and everything was very respectful which we really
1115 appreciate. Everyone have a very good evening.

1116

1117 Mayor Letica made a motion to adjourn the meeting; seconded by Trustee Ettinger.

1118 Trustee Jablonski AYE

1119 Trustee Burke AYE

1120 Trustee Ettinger AYE

1121 Deputy Mayor Pierce AYE

1122 Mayor Letica AYE

1123 Motion Carried.

1124

1125 The December 1, 2020 Regular board meeting of the Board of Trustees was adjourned at

1126 approximately 8:35pm.

1127 Signed: _____

1128 Nancy Rittenhouse, Village Clerk

1129