AGENDA FOR THE REGULAR MEETING TO BE HELD BY THE BOARD OF TRUSTEES ON FRIDAY, JUNE 18, 2021

PRESENT:

OTHERS PRESENT:

The Pledge of Allegiance.

Approval of Minutes of Regular Meeting held on May 21, 2021 and Special Meeting held on May 28, 2021.

Motion By: Seconded:

Approval of Abstract of Audited Vouchers Schedule 06-21, $388,177.26 and Treasurer's Report for the Month ending May 31, 2021:

| | |
|---|---|
| $ 89,279.80 | Checking Account |
| $7,018,998.61 | Investments |
| $ 869,543.87 | Capital Reserve |
| $7,977,822.28 | Total General Fund 05/31/21 |

Motion By: Seconded:

Clerk's report for May 2021 False Fire and Burglar Alarms:

Burglar Billed: $200; Burglar Collected: $275
Fire Billed: $0; Fire Collected: $350

Departmental Monthly Reports:

Fire Department
Building Department
Police Department

Discussion of letter dated May 26, 2021 of six neighbors of the Quogue Club at 47 Quogue Street requesting a rehearing and/or reconsideration of the decision of the Board of Trustees rendered on May 21, 2021 pertaining to an outdoor dining area at 47 Quogue Street. (See attached)

Public hearing regarding "Local Law No. ____ of 2021 A Local Law Amending Chapter 111 (Noise) of The Village Code In Relation to Hours of Operation for Gas Powered Leaf Blowers as introduced on May 21, 2021. (See attached)

Public hearing regarding "Local Law No. ____ of 2021 Amending Chapter 123 (Peace and Good Order), Article VI (Lighting) of the Village Code as introduced on May 21, 2021. (See attached)

Public hearing regarding "Local Law No. ____ of 2021 A Local Law Adding a New Chapter 114 (Non- Smoking Areas) to the Village Code as introduced on May 21, 2021. (See attached)

Public hearing regarding "Local Law No. ____ of 2021 A Local Law Amending Chapter 105 (Home Improvement Contractors) of The Village Code as introduced on May 21, 2021. (See attached)

Resolution to schedule the Organizational Meeting to be held on July 1, 2021 at 10:00 A.M.
Motion By: Seconded:

Resolution to approve a Special Event Permit application from Frank and Janet DellaFera for use of the Village parking lot on July 17, 2021 from 6:00 P.M. until 11:00 P.M
Motion By: Seconded:

Resolution to approve a Special Event Permit application from Frank and Janet DellaFera for use of the Village Beach parking lot on June 26, 2021 from 6:00 P.M. until 11:00 P.M.
Motion By: Seconded:

Resolution to approve a Special Event Permit application from Gordan and Monica Rafajac for a party to be held at the Village Beach on July 3, 2021 from 7:30 P.M. to 10:30 P.M.
Motion By: Seconded:

Resolution to approve contract with the Chief of Police.
Motion By: Seconded:

Resolution to accept the resignation of Lauren McGuire from the position of Jail Attendant effective April 27, 2021.
Motion By: Seconded:

Resolution to revoke resident beach sticker 1047 due to unauthorized use of such sticker.
Motion By: Seconded:

Resolution to reimburse John Gramins $125 for overpayment of rental application fee.
Motion By: Seconded:

Resolution to increase purchase order 16419 Mulco Plumbing and Heating in the amount of $400.
Motion By: Seconded:

Resolution to approve a payment of $89.90 to Aspatuck Gardens utilizing the Jobson account.
Motion By: Seconded:

Resolution to approve the revised Building Department Fee Schedule. (see attached)
Motion By: Seconded:

Resolution to approve the request of the Quogue Historical Society to use the Village Green on August 14, 2021 for its annual art show and to authorize the Mayor to sign a license agreement for that purpose.
Motion By: Seconded:

Meeting Adjourned: ____PM

_____
Aimee Buhl, Village Clerk

May 26, 2021

To: Quogue Village Board of Trustees

RE: In the Matter of the Application of The Quogue Club, LLC, 47 Quogue Street, dated February 16, 2021

Gentlemen:

Please take notice that the undersigned hereby request a re-hearing and/or reconsideration of the Trustees' Decision issued at its last Board meeting on Friday May 21, 2021, for the following reasons:

1) Recusal

The Board's Decision seemingly ignores or overlooks the indisputable fact that the Mayor – Chairman of the Board of Trustees and a Charter member of the Quogue Club – in writing and orally to the Zoning Board of Appeals, advocated in support of the Quogue Club's petitions for outdoor dining. This support (and its possible effects on other Trustees) is a clear conflict of interest, as well as the appearance of a conflict. Moreover, the subjective belief of all Trustees who are also Charter members of said Club cannot and does not negate the clear objective appearance of a conflict of interest. Accordingly, their participation in the Decision renders it invalid and must be withdrawn.

2) Variance

Part 1: Substituting the Trustees for the Zoning Board of Appeals (ZBA) in Paragraph 4 of the Settlement and Declaration. The Decision seems befuddled by, and ignores the essential wisdom of, the Village's decision in 1981 to designate the ZBA as the guardian and judge of the prohibition on outdoor dining. An analysis of those documents, we submit, gives a clear answer. First, the WHEREAS clauses of both documents state that the issues involve the village's zoning code. Secondly, Paragraph 4 strictly prohibits outdoor dining, and Paragraph 5 makes a violation thereof a violation of the zoning ordinance. Who better to be guardian (and determine if a variance is necessary) than the ZBA, whose primary job is dealing with the Villages' zoning laws?

The Decision seizes on the word "consent" as if that is the Rosetta Stone. Consent is "permission," which is exactly what the Quogue Club would need from the ZBA to provide outdoor dining in a residential area that previously was never used for serving food (see also Part 2 below). The granting of a variance is nothing more than permission to do what otherwise could not be undertaken. The other construct is that the Trustees, not the ZBA, are elected officials and are responsible to the people. That is another reason that the Trustees were wise in 1981 in choosing the ZBA to decide on conflicts like this. The Trustees are subject to political pressure like the letter-writing campaign the Quogue Club instituted in this case. The ZBA members, on the other hand, are appointed and free from political pressure – which makes them the ideal Independent arbitrators of disputes involving Settlement Paragraphs 4 and 5 (and need or not of a variance). In short, the ZBA members can decide an issue without fear or

favor. In this case, the Trustees cannot.

Part 2: The Decision's short paragraph regarding the need or not of a variance is unpersuasive and wrong. In addition to the "consent" speculation, the Decision on the need or not of a variance turns on the Board's interpretation of section 196-3A (a job more suited for the ZBA) and that the Quogue Club's proposal (not a guarantee) "is not to increase the maximum numbers of diners on the property... therefore that provision is not violated." This analysis is simplistic and ignores that the back patio was never previously used for outdoor dining (and therefore it was never a preexisting, nonconforming use). Two things follow: the contemplated seating of 24 diners is a 2,400 percent increase. And use of the back patio is converting space not heretofore considered in gauging the footprint into new usable dining space in violation of the footprint building limitation. Clearly, those are significantly "greater use" in violation of that Section.

In addition, Section 196-3 as it existed in 1981 at the time of the Settlement prohibited nonconforming property to a use that "enlarged ... or changed in style or character as to less conform to the provisions of this chapter, whether for the same or any other conforming use or purpose."

There can be little doubt that the Quogue Club property is zoned residential and Is allowed to operate on its existing footprint as a preexisting nonconforming use. Any expansion of the footprint, increase in intensity of use, or change in character (from self-contained indoor dining to inclusion of outdoor dining) requires a variance.

3) Benefit to the Community and Neighbors

In an attempt to justify its Decision, the Board of Trustees tells us the Quogue Club is a successful commercial operation and is popular with Quogue residents – all while discarding the inconvenient truth that the public and the community at large derives no benefit from it. Yes, the Club has refurbished its property, like almost all other Quogue property owners. Yes, the Club pays taxes, but so do all other Quogue property owners, including the other six surrounding homeowners who unanimously oppose outdoor dining.

We are also told the Settlement was intended to address a different situation. Here, without any evidence, the Board is speculating on the limits of the Settlement. Yet the document itself has no such limiting language, and it is that which should control an independent analysis.

On this shaky foundation, the Trustees invent a standardless test, rejecting the traditional one of need, to demonstrate some harm or hardship (even a financial one) to an applicant seeking relief. Thus, we are told that the Quogue Club has "earned the right to undertake a trial of outdoor dining," casting aside all norms and the rights of the surrounding homeowners to the peaceful enjoyment of their homes. At the same time, the Club ignores the reality that an outdoor atrium of diners cannot help but generate an unpleasant undercurrent of noise and chatter projecting into neighbors' yards – and through the bedroom windows of their children.

Most distressingly, the Trustees have completely ignored the totality of circumstances

which the neighbors have and will continue to suffer by the Decision – circumstances that were abundantly clear in the many letters and testimonies that were delivered to the Trustees. We submit the Trustees' gaze should be on the totality of the property's history, including but not limited to:

- The nonconforming use of the previous and current iterations of 47 Quogue Street through the years as a facility with indoor dining only.
- The Trustees' efforts to protect the neighbors from outdoor dining in 1981, in stark contrast to their current position.
- The noises and nuisances that current neighbors have had to live with for nearly ten years, including initial demolition and refurbishment; suffering the sight and sounds of the Village's largest residential dumpster, located just a few feet from a neighbor's property line and requiring a commercial dumpster to relieve it of its contents; a parade of delivery and maintenance trucks constantly interrupting the quietness of Quogo Neck Lane as it has been used as a commercial loading dock, with ruts and gauges on the neighbors' lawns and sprinkler heads destroyed; and again, the chatter, peals of laughter, and clanking tableware endured by and attested to by neighbors when outdoor dining was temporarily permitted due to the pandemic in 2020.
- Finally and not insignificantly, the enormous time expended and the gut-wrenching worry the neighbors have suffered two years in a row in the face of the Quogue Club's unrelenting drive to be victorious in their pursuit of outdoor dining, which will increase the value of their property while decreasing that of its neighbors' properties. It is important to note that outdoor dining did not exist and was never a real issue for members prior to 2020, when the Club attempted to parlay a temporary act of generosity into a permanent mandate, without ever empathizing with or recognizing the legitimate objections of all six of its surrounding neighbors.

4) <u>Conclusion</u>

The Quogue Club forum shopped to the Board of Trustees because it believed it would fare better than before the ZBA. The Decision has proven them right. The above reasons show why it should not stand.

We also ask that pending an additional hearing or reconsideration, the Board suspend the effectiveness of its May 21st Decision.

Respectfully submitted,

Pat and Jim Tolan
Susan and Roger Moley
Ann and Clarke Lewis
Nicola and Paul Andersson
Annie and Patrick Wernig
The Davis Family

Local Law No. of 2021

A Local Law Amending Chapter 111
(Noise) of The Village Code
In Relation to Hours of Operation for
Gas Powered Leaf Blowers

Section 1. The Board of Trustees hereby finds and determines that the permissible hours of operation of gas-powered leaf blowers should be reduced, and the use of loud gas-powered leaf blowers should be restricted in certain months when their power is needed, in order to better secure and promote the comfort, welfare, prosperity and the peace and quiet of the Village of Quogue and its inhabitants.

Section 2. Section 111-4 (Violating Acts) is hereby amended by adding the following underlined sentences at the end of Paragraph O (Landscaping):

> Landscaping. The use or operation, on a Sunday or a holiday and other than between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and between the hours of 7:00 a.m. and 4:00 p.m. on Saturday, of any engine- or motor-powered lawn-care equipment, leaf blower, lawn mower or trimmer by any person other than a homeowner on his own property or the use or operation, other than between the hours of 7:00 a.m. and 7:00 p.m. on any day, of any engine- or motor-powered lawn-care equipment, leaf blower, lawn mower or trimmer by a homeowner on his own property. **Notwithstanding the foregoing, engine- or motor-powered leaf blowers that use gasoline as fuel ( "GPLBs") shall not be used or operated on any Sunday or holiday, on any Saturday between May 15 and October 15 or before 8:00 a.m. or after 4:00 p.m. on any other Saturday, or before 8:00 a.m. or after 5:00 p.m. on any Monday through Friday. Commencing on May 15, 2022, all GPLBs used between May 15 and October 15 must have a rated sound level not exceeding 65dB(A) (and bear a sticker affixed to the device so stating) and in fact operate at that level.**

Section 3. This local law shall become effective on July 1, 2021 or upon the filing thereof with the Secretary of State of the State of New York, whichever is later.

Local Law No. of 2021

A Local Law Amending Chapter 123 (Peace and Good Order),
Article VI (Lighting) of the Village Code

Section 1. The Board of Trustees hereby finds and determines that nuisance lighting should be better defined and that nonessential overnight lighting should be prohibited in order to better secure and promote the public health, comfort, convenience, safety, welfare, prosperity and the peace and quiet of the Village of Quogue and its inhabitants.

Section 2. Section 123-14 (Operation as a nuisance prohibited) is hereby amended by changing the title thereof to "(Certain Lighting Prohibited)" and by changing the text thereof so that it reads in its entirety as follows:

§ 123-14 (Certain Lighting Prohibited)

A. If the Village Ordinance Enforcement Officer determines that nuisance lighting exists on a property, he or she shall notify the property owner that lighting on the property shall comply with either (1) or (2) below.

(1) To the extent that the abatement of nuisance lighting will require re-aiming a fixture or re-lamping to reduce lumen output, such lighting shall be re-aimed and/or re-lamped so that it ceases to be nuisance lighting.

(2) To the extent that the abatement of nuisance lighting will require removing, replacing, shielding, retrofitting, or relocating a fixture, such lighting shall be removed, replaced, shielded, retrofitted, or relocated so that It ceases to be nuisance lighting.

B. For purposes of the foregoing, the following definitions shall apply:

Glare
A visual effect produced when a light source within the field of view is brighter than the level to which the eyes are adapted. Glare may cause annoyance, discomfort, loss of visual acuity, or momentary blindness.

Light Trespass

Light projected from a light source on a property onto another property or onto a road.

Nuisance Lighting

Any lighting that creates a potential hazard to the public by reason of its positioning or brightness or light trespass or glare to a neighboring property or properties that would cause a material loss of enjoyment, comfort, or repose to a reasonable person on such a neighboring property.

C. Essential outdoor lighting that is minimalist in nature and reasonably sufficient in the judgment of the Ordinance Enforcement Officer for security purposes may be in operation continuously from midnight until dawn. All other outdoor lighting shall not remain on continuously from midnight until dawn.

Section 3. This local law shall become effective upon the filing thereof with the Secretary of State of the State of New York.

Local Law No. of 2021

A Local Law Adding a New Chapter 114
(Non-Smoking Areas) to the Village Code

Section 1. Because second-hand smoke generated by the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or cannabis or cannabinoid hemp and the discharge caused by vaping with an electronic cigarette can be annoying to others in the vicinity and potentially hazardous to their health, the Board of Trustees hereby finds and determines that a prohibition on smoking in certain public areas owned by the Village of Quogue is necessary and appropriate for the health and welfare of the inhabitants of the Village, and such a prohibition is authorized by Section 1399-r(3) of the New York Public Health Law.

Section 2. The Village Code is hereby amended by adding a new Chapter 114 (Non-Smoking Areas) to read in its entirety as follows:

CHAPTER 114

NON-SMOKING AREAS

§ 114-1. **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

"Cannabinoid hemp" means any hemp and any product processed or derived from hemp that is used for human consumption.

"Cannabis" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

"Electronic cigarette" or "e-cigarette" means an electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such a device.

"Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance that contains tobacco or cannabis or cannabinoid hemp.

"Vaping" means the use of an electronic cigarette.

"Village" means the Incorporated Village of Quogue.

§ 114-2. **Smoking and Vaping Prohibited in certain Village-owned and controlled areas.**

Smoking and Vaping by any person shall be prohibited in the following Village-owned and controlled areas:

A. Village-owned properties and sidewalks bordering on the west side of Jessup Avenue from and including the Quogue Village Police Department at 115 Jessup Avenue and extending in a southerly direction to the southern border of the Village Green adjacent to 44 Quogue Street,
B. The sidewalk on the east side of Jessup Avenue between Midland Street and Quogue Street,
C. The sidewalk on the north side of Quogue Street from 44 Quogue Street to 52 Quogue Street,
D. The sidewalk on the southerly side of Midland Street,
E. The pond property on the northeast corner of Jessup Avenue and Midland Street and the adjacent property at 114 Jessup Avenue,
F. The Quogue Wildlife Refuge, the entrance of which is at 5 Old Country Road,
G. The Quogue Village Dock Recreational Area, located at the southern end of Quogo Neck Lane,
H. The Quogue Village Beach, located at 170 and 172 Dune Road, and
I. The boardwalk located on the northerly side of Dune Road approximately opposite number 194 Dune Road.

§ 114-3. **Penalties for offenses**.

Any person Smoking or Vaping at any place where it is prohibited by this Chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine of $100 for the first offense under this Chapter and not exceeding $500 for the second and each subsequent offense.

Section 3. The provisions of this local law are intended to supplement but not to modify or impair in any manner the provisions of Article 13E of the New York Public Health Law

Section 4. The appropriate Village departments shall prominently post and maintain the signage required by Section 1399-p (1) of the New York Public Health Law.

Section 5. This local law shall take effect upon filing with the Secretary of State.

Local Law No. of 2021

A Local Law Amending Chapter 105
(Home Improvement Contractors) of the Village Code

Section 1. The Board of Trustees hereby finds and determines that the definition of "Home Improvement" in Section 105-1 of the Village Code should be modified in order to conform it more closely to the definition thereof in Chapter 143 (Licensing of Home Improvement Contractors) of the Southampton Town Code.

Section 2. Section 105-1 (Definitions) of the Village Code is hereby amended by deleting in paragraph A the parenthetical phrase "(using construction materials only)" after the word "landscaping."

Section 3. This local law shall become effective upon the filing thereof with the Secretary of State of the State of New York.

**VILLAGE OF QUOGUE**
**BUILDING DEPARTMENT, ZONING BOARD OF APPEALS AND PLANNING BOARD**

**FEE SCHEDULE**
(As of ~~November 15, 2019~~ June 18, 2021)

**Building Permit Application Fees (non-refundable):**
(*checks are made payable to the "Village of Quogue"*)

| | |
|---|---|
| New building | $500 |
| All other applications | $200 |

All building permit application approvals expire 6 months after the date on which the Village notifies the applicant that an application has been approved (or approved subject to satisfaction of specified conditions), -unless, prior to the expiration of such 6 months, all the conditions, if any, have been satisfied, the building permit fee has been paid and the building permit has been issued.

**Building Permits (includes Certificate of Occupancy/Compliance)**
New buildings, accessory structures, additions, alterations, fences and docks and bulkheads:

$6.00 per $1,000 of cost
Building permit fees include all scheduled inspections (foundation, framing, etc.) except that subsequent inspections after a failed final inspection and one follow-up inspection of any corrective measures shall incur a fee of $50 per inspection.

**Building Permit Extensions**
Building permits expire if work is not commenced within six months of the date of issuance or has not been completed within 18 months from such date. For good cause shown, an extension of either date may be issued for an additional six months. The cost of an extension is 50% of the original permit cost.

**Coastal Erosion Hazard Area Permit**
$300 in addition to charges for any other permit that may be applicable.

**Demolition and Removal**

| | |
|---|---|
| Up to 1,000 square feet: | $100 |
| More than 1,000 square feet: | $300 |

**Flood Plain Management Permit**
If a structure is located in an "area of special flood hazard" (as defined in Chapter 95 of the Quogue Village Code), the following fees shall be payable in addition to charges for any other permit that may be applicable.

| | |
|---|---|
| Additions | $150 |
| New Accessory Buildings | $150 |
| New Principal Buildings or a "substantial improvement" | $250 |

Under Chapter 95 the owner shall also be required to reimburse the Village for any out of pocket costs necessary for review, inspection or approval of the project.

**All of the foregoing fees on this page shall be doubled if work starts before an application is approved**.

**Record Search** $150 (plus copies)

**Storm Water Pollution Prevention Plan**

| | |
|---|---|
| Review of initial SWPPP | $200 |
| Review of revised SWPPP | $50 |
| Inspections | $50 |

In each case there are added the actual fees and expenses of the Village Engineer and/or other professionals engaged by the Village in connection with the SWPPP.

**Updated Certificate of Occupancy** $250

**Any inspections after the initial inspection and one follow-up inspection of any corrective measures shall incur a fee of $50 per inspection.**

**Zoning Board of Appeals**

| | |
|---|---|
| Area Variance Application: | $350 |
| Use Variance Application: | $500 |
| Coastal Erosion Hazard Area Variance Application: | $1,000 |

**Planning Board**

Subdivision – Fee as calculated in Section 162-61 of the Quogue Village Code.

Other Applications - $350 plus the reasonable and necessary fees and expenses, if any, of the Village Engineer associated with the application.