

**Regular Town Board Meeting**

Geneva Town Board  
3750 County Road #6  
Geneva, NY 14456  
**September 8, 2009**

DRAFT

PRESENT: Supervisor Mary E. Luckern  
Councilman Anthony Capozzi  
Councilman Richard Larsen  
Councilman Edward Smaldone  
Councilman Michael Vassello  
Attorney for the Town: Jeff Graff

Recording Secretary: Lorrie S. Naegele, Geneva Town Clerk.

Others Present: David Achilles, Highway Superintendent; Howard Meaker, Election Custodian; Pat Mahoney, Planning Board Member; Mike Guyon, MRB Engineer; William McAdoo, Code Enforcement Officer; John Russo, Zoning Board Chairman; Thirty residents and Craig Fox Reporter for the Finger Lakes Times.

1) **CALL TO ORDER:** Supervisor Luckern called the meeting to order at 7:03 P.M. The meeting was opened with the Pledge of Allegiance. The Supervisor asked for a moment of silence for the Anniversary of 9-11 in keeping the memory of the people that lost their lives that day and the families affected by it.

2) **PRESENTATION BY KEN PERRY:** Ken is the Chairman of the Kashong Conservation Area. Ken has been gathering up people to be on a committee to help set the area use-friendly. A pond was discussed and Councilman Smaldone asked what the depth of the pond would be. Ken stated that it would be about six feet but they would have to get a permit before any work could start on the site. There is an issue about whether or not the area is a wetland. New York State Department of Environmental Conservation says it is not a wetland and the Federal Government says it is a wetland. Ken is working on getting that issue worked out. The committee will meet in October to begin organizing all of the ideas that were discussed. Councilman Larsen stated, that the posted signs currently say “No Trespassing” but they need to be modified to say “No hunting and No motorized vehicles allowed on the property”. Ken said that the concern would be addressed soon.

3) **ACCEPTANCE OF THE MINUTES:** RESOLVED, that the Minutes of the Public Hearing August 11, 2009 for the Noise Regulation, Public Hearing August 11, 2009 for the proposed LL to Rezone Carter Road and the Regular Meeting August 11, 2009 be approved and accepted. Motion made by Councilman Smaldone second by Councilman Capozzi.

**Discussion:** None

Motion unanimously approved.

4) **RECOGNIZE SAM MAIO ON HIS 100<sup>TH</sup> BIRTHDAY:** Motion to recognize Sam Maio on his 100<sup>th</sup> Birthday made by Councilman Smaldone second by Councilman Larsen.

**Discussion:** Resolution was read.

Motion unanimously approved.

**Resolution to Honor Sam Maio on his 100<sup>th</sup> Birthday**

**WHEREAS,** Mr. Maio has spent his entire life in the Town of Geneva, and

**WHEREAS,** Mr. Maio started his business many years ago and is now known as S.J. Maio and Sons, and

**WHEREAS,** Mr. Maio’s business participated in the construction of various businesses including Geneva Urban Renewal and the Family Bargain Center, and

**WHEREAS,** Mr. Maio still goes to the office each day, and

**NOW, THEREFORE, LET IT BE RESOLVED**, that at their September 8, 2009 meeting, the Geneva Town Board on behalf of the Town of Geneva at large will acknowledge Mr. Sam Maio on the occasion of his 100<sup>th</sup> birthday and congratulate him and direct a copy of this Resolution be entered into the minutes of the Board and a copy be sent to Mr. Maio and his family.

**5) RECEPTIONIST’S AUGUST 2009 REPORT: (REFER TO ADDENDUM # 1)**

Motion to accept and approve made by Councilman Smaldone second by Councilman Vassello.

**Discussion:** None

Motion unanimously approved.

**6) TOWN CLERK’S AUGUST 2009 REPORT: (REFER TO ADDENDUM # 2)**

Motion to accept and approve made by Councilman Capozzi second by Councilman Larsen.

**Discussion:** None

Motion unanimously approved.

**7) CODE ENFORCEMENT OFFICER’S AUGUST 2009 REPORT :(REFER TO ADDENDUM # 3)**

Motion to accept and approve made by Councilman Vassello second by Councilman Smaldone.

**Discussion:** CEO Bill McAdoo spoke about; Certificate of Occupancy that was given to Seneca Foods for their agricultural building that will house their larger pieces of equipment, which are used to pick beans. Supervisor Luckern commented on Bill McAdoo’s report when he discussed High Acres. She stated that one of the neighbors wanted to make some suggestions for the site plan at the Planning Board meeting but that her suggestions didn’t get in. Supervisor wanted this noted in the minutes.

Motion unanimously approved.

**8) AUTHORIZE TO APPROVE BILLS: RESOLVED, that the bills are presented for payment on Abstract 009-2009 from voucher # 791 through # 880.**

FUND		VOUCHER #	TOTALS
A	General Fund	(854-880)	\$ 28,838.36
DA	Highway	(815-830)	\$ 42,615.59
SS	Sewer District	(831-838)	\$ 1,906.00
SWD	Water Storage & District	(839-853)	\$ 12,786.68
<b>TOTAL</b>			<b>\$ 86,146.63</b>
<b>TOTALS</b>			
ABSTRACT: 09 –2009; September 2009 voucher # 791to 880			\$ 86,146.63
PRE-PAID –August & Sept. voucher # 791 to 814			\$ 191,471.92
<b>SEPTEMBER - TOTAL</b>			<b>\$ 277,618.55</b>

Motion to approve bills made by Councilman Smaldone second by Councilman Capozzi.

**Discussion:** None

Motion unanimously approved.

**9) REPAIR BRICK WORK ON THE TOWN HALL: This was tabled at the August Meeting. Motion to approve John M. Serrett to set, point and check brickwork on the Town Hall and not to exceed the amount of \$3,300.00. Motion made by Councilman Capozzi second by Councilman Larsen.**

**Discussion:** None

Motion unanimously approved.

**10) KASHONG CONSERVATION AREA COMMITTEE:** Motion to appoint the following to the Kashong Conservation Area Committee: Jim Engle, Chris Hansen, Eric Hansen, Rick Krapf, Celia McAdoo, Nathan Martin, Nancy McGowan, Woodrow Nepa, Dr. Elizabeth Newell and Bill Wilsey. Motion made by Councilman Smaldone second by Councilman Vassello.

**Discussion:** Councilman asked where was Dr. Newell from? Mr. Perry stated HWS College, Biology Department.

Motion unanimously approved.

**11) GENERAL EFFICIENCY PLANNING GRANT: (RESOLUTION NO. 17 - 2009)** Motion to support the General Efficiency Planning Grant made by Councilman Smaldone second by Supervisor Luckern.

**Discussion:** Supervisor Luckern explained that Robin Johnson, Chairman of Real Property Tax of Ontario County brought this to Mary’s attention. This grant is to further study centralizing Commercial Property Valuation. Supervisor Luckern stated that if they do the grant and the information comes back to the Town and the Town Board does not want to participate then it doesn’t have to. Councilman Smaldone asked if this was a duplication of services. Supervisor Luckern stated that this would replace services. Councilman Larsen stated that he wanted to know more about it. Supervisor Luckern stated that they had to make a decision by September 27<sup>th</sup> 2009. Councilman Smaldone asked “If we accept this now could we change our mind later?” The Supervisor replied, “yes.”

**TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD  
RESOLUTION NO. 17-2009**

**RESOLUTION OF SUPPORT  
GENERAL EFFICIENCY PLANNING GRANT**

**WHEREAS,** The County of Ontario wishes to pursue grant funding to support an improvement to the real property tax administration, and

**WHEREAS,** The Ontario County Real Property Tax Services Agency supports the various municipalities in the administration of assessment programs, and

**WHEREAS,** The Town of Geneva is interested in exploring a more efficient and consistent system a value commercial, industrial and complex agricultural properties;

**THEREFORE BE IT RESOLVED,** that the Town Board of the Town of Geneva supports the further study of the centralized Commercial Property Valuation Project; and further

**RESOLVED,** that a copy of this resolution be forwarded to Robin Johnson, Director, Ontario County Real Property Tax Services, 20 Ontario Street, Canandaigua, NY 14424.

I, Lorrie S. Naegele, Town Clerk of the Town of Geneva, do hereby certify that the aforementioned resolution, was adopted by the Town Board of the Town of Geneva on September 8, 2009, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	<u>      </u>
Anthony Capozzi	<u>X</u>	<u>      </u>
Richard Larsen	<u>      </u>	<u>X</u>
Edward Smaldone	<u>X</u>	<u>      </u>
Michael Vassello	<u>      </u>	<u>X</u>

Date: September 8, 2009

\_\_\_\_\_  
Lorrie S. Naegele, Town Clerk

**12) NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS):** Motion of the Town of Geneva hereby adopts the (NIMS) as its all hazard incident management system. Motion made by Councilman Smaldone second by Councilman Capozzi.

**Discussion:** None

Motion unanimously approved.

**13) SEQR REVIEW FOR A PORTION OF CARTER ROAD REZONING:** (REFER TO ADDENDUM# 4)  
**Impact on Growth and Character of Community or Neighborhood:** 19-yes, bullet #3 - Small to moderate impact.

**14) AMEND RESOLUTION 18-2009:** Motion to amend page number 2 item (a) All of these proposed regulations are felt to be consistent with the land use recommendations and officially adopted policy statements contained in the adopted Town of Geneva Comprehensive Plan Update 2006.

Amend to read:

(a) The rezoning that this local law would authorize, although not comporting with the adopted Town of Geneva Comprehensive Plan Update 2006, would still comport with the Town of Geneva's long term goals in that recent multi-family development within this area has achieved the development goals that were anticipated in the adopted Town of Geneva Comprehensive Plan Update 2006; and

Motion made by Councilman Capozzi second by Councilman Larsen.

**Discussion:** None

Motion unanimously approved.

**14A) RESOLUTION NO. 18-2009:** Determination of Significance of the Local Law **3-2009** regarding the Portion of Carter Road.

Motion made by Councilman Smaldone second by Councilman Capozzi.

**RESOLUTION OF THE TOWN BOARD  
OF THE TOWN OF GENEVA**

**RESOLUTION NO. 18-2009**

**WHEREAS**, the Town of Geneva Town Board (hereinafter referred to as Town Board) is considering taking formal action to enact Local Law No. **3 of 2009** (hereinafter referred to as Action); and

**WHEREAS**, the Action is a Type I Action as defined under the State Environmental Quality Review (SEQR) Act; and

**WHEREAS**, the Town Board is the only Involved Agency identified under SEQR and, therefore, is responsible for making the determination of significance on said Action; and

**WHEREAS**, the Town Board has completed its review of the Full Environmental Assessment Forms prepared on said Action.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Board determines the following criteria to be a true and accurate evaluation of the anticipated environmental impacts that are felt likely to occur from the adoption and enactment of this Action:

(i) There will not likely be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; or a substantial increase in solid waste production; or a substantial increase in the potential for erosion, flooding, leaching or drainage problems that will occur from the adoption and enactment of the land use regulations contained in said Local Law; and

(ii) There will not be a substantial adverse effect upon the environment caused by the removal or destruction of large quantities of vegetation or fauna; or a substantial interference with the movement of any resident or migratory fish or wildlife species; or adverse impacts upon a significant habitat area; or a substantial adverse impact upon a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources; and

(iii) There will be no impairment of the environmental characteristics of any Critical Environmental Areas as designated pursuant to subdivision 617.14 (g) of SEQR; and

(iv) There does not appear to be the potential for the creation of material conflict with the recommended actions, goals and policies contained in the adopted Town of Geneva Comprehensive Plan Update 2006; and

(v) There will be no impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character; and

(vi) There will be no significantly adverse change in the use of either the quantity or type of energy; and

(vii) There will be no creation of a hazard to human health; and

(viii) There will likely be a change in the use of land based on the regulations created by this law but any problems associated with a particular application will be mitigated through enforcement of the regulations; and

(ix) There will not likely be an attraction of a large number of people to the land involved with the Action for more than a few days each year, when compared to the number of people who would come to such a place absent the Action; and

(x) There will not likely be a material demand created for other actions that would likely result in one of the above consequences; and

(xi) There are no known changes in two or more elements of the environment associated with this Action which have a significant impact upon the environment; and

(xii) There are no known related actions to be undertaken, funded or approved by the Town Board, that would have a significant adverse impact upon the environment, and when considered cumulatively would meet or exceed one or more of the criteria contained in Section 617.7 (C).

**BE IT FURTHER RESOLVED** that the Town Board did reasonably consider the related long-term, short-term, direct, indirect and cumulative impacts associated with the Action which include:

(a) The rezoning that this local law would authorize, although not comporting with the adopted Town of Geneva Comprehensive Plan Update 2006, would still comport with the Town of Geneva's long term goals in that recent multi-family development within this area has achieved the development goals that were anticipated in the adopted Town of Geneva Comprehensive Plan Update 2006; and

(b) The above referenced plan is not dependent upon the proposed Action.

**BE IT FURTHER RESOLVED** that the Town Board did consider the significance of the likely consequences of the proposed Action in connection with:

(i) its setting and has determined that the proposed land use regulations are consistent with the officially adopted land use recommendations contained in the Town of Geneva Comprehensive Plan Update 2006; and

(ii) its probability of occurrence and there is no further rezoning under consideration; and

(iii) its duration will be over a number of years that will likely mitigate any change in land use; and

(iv) it will not result in a project or projects that cannot allow the land to be reverted back to its original condition should there be need; and

(v) its geographic scope will not likely have an adverse effect on the loss of natural resources including active and productive farmlands that have been identified as being important to the community in its officially adopted plans; and

(vi) its magnitude and has determined that the regulations governing the issuance of the special use permit will mitigate any adverse impact upon the environment; and

(vii) the number of people who likely may be adversely affected by the Action, and that number is presently unknown.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board does hereby reasonably conclude that based upon the above evaluation said Action will not likely have a potentially significant adverse impact upon the environment.

I, Lorrie S. Naegele, Town Clerk of the Town of Geneva do hereby certify that the aforementioned resolution, was adopted by the Town Board of the Town of Geneva on September 8, 2009, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	_____
Edward Smaldone	<u>X</u>	_____
Michael Vassello	<u>X</u>	_____
Richard Larsen	<u>X</u>	_____
Anthony Capozzi	<u>X</u>	_____

Dated: September 10, 2009

\_\_\_\_\_  
Lorrie S. Naegele, Town Clerk

**15) RESOLUTION NO. 19-2009:** Resolution authorizing adoption by the Town Board of the Town of Geneva to make a negative declaration in reference to the Local Law **3-2009** which will amend a portion of the Carter Road on the Town of Geneva Zoning Map.

Motion made by Councilman Smaldone second by Councilman Capozzi.

**TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD  
RESOLUTION NO. 19-2009**

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF GENEVA,  
ONTARIO COUNTY, NEW YORK,  
DETERMINATION OF SIGNIFICANCE – LOCAL LAW NO. 3 of 2009**

**WHEREAS**, the Town of Geneva Town Board, hereinafter referred to as Town Board, has determined Local Law No. 3 of 2009 to be a Type I action under the State Environmental Quality Review (SEQR) Regulations, and,

**WHEREAS**, the Town Board has reviewed and accepted the Environmental Record prepared on said action, and

**WHEREAS**, the Town Board has considered the potential impacts associated with said action.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Town Board makes this Determination of Non-Significance based upon: the Full Environmental Assessment Form, Parts 1 and 2, prepared for this action, Town Board Public Hearing Record on said action; and, the Environmental Record prepared on said action.

**BE IT FURTHER RESOLVED THAT**, the Town Board makes this Determination of Non-Significance based on the following reasons supporting this determination:

1. The Town Board considered the action as defined in subdivisions 617.2(b) and 617.3(g) of Part 617 of the SEQR Regulations; and,
2. The Town Board did review the EAF, the criteria contained in subdivision (c) of 617.7 and other supporting information to identify the relevant areas of environmental concern; and,
3. The Town Board did thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have significant adverse impact on the environment; and
4. The Town Board did set forth its determination of significance in written form containing a reasoned elaboration and providing reference to all supporting documentation.

I, Lorrie S. Naegele, Town Clerk of the Town of Geneva do hereby certify that the aforementioned resolution, was adopted by the Town Board of the Town of Geneva on September 8, 2009, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	_____
Edward Smaldone	<u>X</u>	_____
Michael Vassello	<u>X</u>	_____
Richard Larsen	<u>X</u>	_____
Anthony Capozzi	<u>X</u>	_____

Dated: *September 8, 2009*

\_\_\_\_\_  
Lorrie S. Naegele, Town Clerk

**16) RESOLUTION NO. 20-2009:** Authorizing adoption of Local Law No. 3-2009 which will amend a portion of the Town of Geneva Zoning Map by Carter Road.

Motion made by Councilman Smaldone second by Councilman Vassello.

TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD

**RESOLUTION NO. 20-2009**

**RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF GENEVA OF LOCAL LAW NO. 3 OF 2009 WHICH WILL AMEND A PORTION OF THE TOWN OF GENEVA ZONING MAP**

**WHEREAS**, a resolution was duly adopted by the Town Board of the Town of Geneva for a public hearing to be held by said Town Board on August 11, 2009, at 7:00 p.m. at the Geneva Town Hall, 3750 County Road 6, Geneva, New York, to hear all interested parties on a proposed Local Law Amending a Portion of the Town of Geneva Zoning Map; and

**WHEREAS**, notice of said public hearing was duly advertised in the official newspaper of the Town of Geneva, on July 22, 2009 and all other notices required by law to be given were properly served, posted or given; and

**WHEREAS**, said public hearing was duly held on August 11, 2009, at 7:00 p.m. at the Geneva Town Hall, 3750 County Road 6, Geneva, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

**WHEREAS**, pursuant to part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law it has been determined by the Town Board that adoption of said Local Law would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQR; and

**WHEREAS**, the Town Board of the Town of Geneva, after due deliberation, finds it in the best interest of the Town of Geneva to adopt said Local Law.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Geneva hereby adopts said Local Law No. 3 of 2009, entitled, "A Local Law to Amend a Portion of the Town of Geneva Zoning Map", a copy of which is attached hereto and made a part of this resolution, and be it further

**RESOLVED**, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Geneva, and to give due notice of the adoption of said local law to the Secretary of State of New York.

I, Lorrie S. Naegele, Town Clerk of the Town of Geneva do hereby certify that the aforementioned resolution, was adopted by the Town Board of the Town of Geneva on September 8, 2009, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	_____

Edward Smaldone  
 Michael Vassello  
 Richard Larsen  
 Anthony Capozzi

  X       \_\_\_\_\_   
  X       \_\_\_\_\_   
  X       \_\_\_\_\_   
  X       \_\_\_\_\_

Dated: September 8, 2009

\_\_\_\_\_  
 Lorrie S. Naegele, Town Clerk

**FILING LOCAL LAW**

New York State Department of State  
 41 State Street, Albany, NY 12231

**(Use this form to file a local law with the Secretary of State)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**Town of Geneva**  
 Local Law No. **3** of the year **2009**

A local law **"To Amend a portion of the Town of Geneva Zoning Map."**  
 (Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)

**Town of Geneva** as follows:

Section 1. In accordance with Article XI of the Town of Geneva Zoning Law, the Zoning Map of the Town of Geneva is hereby amended by changing a portion of the R-2 Residence District to R-1 Residence District, said portion being situated along a portion of the west side of Carter Road, said portion being shown on the map attached hereto as Schedule "A" and consisting of the following parcels:

PARCEL ID	OWNER NAME	STREET NAME	PARCEL ID	OWNER NAME	STREET NAME
90.14-1-25.000	Cynthia Madia-White	553 Rosewood Dr	90.14-1-14.000	Robert & Jane Dox	546 Rosewood Dr
90.00-1-18.140	Est. Thomas Ferraro	Carter Road	90.14-1-15.000	Steve DeRaddo	550 Rosewood Dr
90.00-1-18.211	Francis Acquilano	260 Carter Rd	90.14-1-16.000	Edward McGuigan	554 Rosewood Dr
90.00-1-18.212	Francis Acquilano	Carter Road	90.14-1-17.000	Phillip Choffin	558 Rosewood Dr
90.00-1-18.213	Dino DeYulio	256 Carter Rd	90.14-1-18.000	Elizabeth DiFederico	562 Rosewood Dr
90.00-1-18.220	John Russo	254 Carter Rd	90.14-1-19.000	Scott Mackenzie	566 Rosewood Dr
90.00-1-20.000	Raphaela Seymour	246 Carter Rd	90.14-1-21.000	John Cosentino	569 Rosewood Dr
90.00-1-24.000	Thomas Riley	206 Carter Rd	90.14-1-22.000	Brian Nault	565 Rosewood Dr
90.00-1-27.000	Boys & Girls Club of Genev	160 Carter Rd	90.14-1-23.000	Kenneth Woznick	561 Rosewood Dr
90.00-1-56.113	DC3 LLC	Carter Road	90.14-1-26.000	Geneva Home Builder	549 Rosewood Dr
90.14-1-1.000	Donald Guerrieri	220 Carter Rd	90.14-1-27.000	Michael Hibbard	545 Rosewood Dr
90.14-1-3.000	Dale Riley	208 Carter Rd	90.18-5-10.500	Thomas Garlick	Carter Rd
90.14-1-4.000	Thomas Riley	206 Carter Rd	90.18-5-11.100	Anthony Yannotti	128 Carter Rd
90.14-1-5.000	Patrick Riley	204 Carter Rd	90.18-5-11.200	Gregory Burgess	126 Carter Rd
90.14-1-6.000	Geneva Home Builders	Rosewood Drive	90.18-5-11.300	Gregory Burgess	128 R Carter Rd
90.14-1-7.000	Sharon Hornbeck	192 Carter Rd	90.18-5-12.100	Helen Garlick	124 Carter Rd
90.14-1-8.100	Jas Swartwood	176 Carter Rd	90.18-5-12.200	Salvatore Cosentino	122 Carter Rd
90.14-1-9.000	Joan Scott	168 Carter Rd	90.18-5-12.300	Paul Cosentino	120 Carter Rd
90.14-1-10.000	Mary E. Damick	152 Carter Rd	90.18-5-12.400	Paul Cosentino	Carter Rd
90.14-1-11.000	Jessica Ferraro	142 Carter Rd	90.18-5-12.500	Helen Garlick	Carter Rd
90.14-1-12.000	MaryLou Dumbleton	538 Rosewood Dr	90.18-5-12.600	Thomas Tierney	118 Carter Rd

Section 2. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 3. This local law shall take effect immediately upon filing with the Secretary of State.

**17) RESOLUTION NO. 21-2009:** Authorizing adoption by the Town Board of the Town of Geneva Local Law No. 4 –2009 “A local Law Adopting Noise Regulations”.

Motion made by Councilman Capozzi second by Supervisor Luckern.

**TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD**

**RESOLUTION NO. 21-2009**

**RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF GENEVA  
OF LOCAL LAW NO. 4 OF 2009 ENTITLED  
"A LOCAL LAW ADOPTING NOISE REGULATIONS"**

**WHEREAS**, a resolution was duly adopted by the Town Board of the Town of Geneva for a public hearing to be held by said Town Board on August 11, 2009, at 7:00 p.m. at Geneva Town Hall, 3750 County Road 6, Geneva, New York, to hear all interested parties on a proposed Local Law entitled, "A Local Law Adopting Noise Regulations" and

**WHEREAS**, notice of said public hearing was duly advertised in the official newspaper of the Town of Geneva, on July 21, 2009 and other notices required to be given by law were properly served, posted or given; and

**WHEREAS**, said public hearing was duly held on August 11, 2009, at 7:00 p.m. at the Geneva Town Hall, 3750 County Road 6, Geneva, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

**WHEREAS**, the Town Board of the Town of Geneva, after due deliberation, finds it in the best interest of the Town of Geneva to adopt said Local Law.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Geneva hereby adopts said Local Law No. 4 of 2009, entitled " A Local Law Adopting Noise Regulations" a copy of which is attached hereto and made a part of this resolution, and be it further

**RESOLVED**, that the Town Clerk be and she hereby is directed to enter said Local Law in the Code of the Town of Geneva and to give due notice of the adoption of this local law to the Secretary of State of New York.

I, Lorrie S. Naegele, Town Clerk of the Town of Geneva do hereby certify that the aforementioned resolution, was adopted by the Town Board of the Town of Geneva on September 8, 2009, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	_____
Edward Smaldone	<u>X</u>	_____
Michael Vassello	<u>X</u>	_____
Richard Larsen	<u>X</u>	_____
Anthony Capozzi	<u>X</u>	_____

Dated: September 8, 2009

\_\_\_\_\_  
Lorrie S. Naegele, Town Clerk

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**FILING LOCAL LAW**

New York State Department of State  
41 State Street, Albany, NY 12231

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(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**Town of Geneva**  
Local Law No. 4 of the year **2009**.

A local law **"Adopting Noise Regulations"**  
(Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)

**Town of Geneva** as follows:

Section 1: The Code of the Town of Geneva is hereby adopted with the addition of a new Chapter 106 to read as follows:

**Chapter 106**  
**Noise Regulations**

**106-1. TITLE:** This chapter shall be known as "Noise Regulations of the Town of Geneva"

**106-2. PURPOSE:**

In order to maintain peace, good order and safety for the people residing in and who are visitors to the Town this ordinance is intended to prevent unreasonably loud or disturbing noises which are of a character, intensity or duration as to be detrimental to the peace, welfare or good order of the people.

**106-3. DEFINITIONS:**

A. Night time hours shall be the hours between 10:00 PM and 7:00 AM.

**106-4. STANDARDS FOR DECIBEL READINGS:**

**A. DEFINITIONS:**

**Ambient Noise:** Background average noise level within an area, exclusive of extraneous sounds.

**Residential Zones:** The R-1 – Residence and R-2 – Residence Districts, as set forth in the Town of Geneva Zoning Law.

**Commercial Zones:** The B-1 – General Business and B-2 – Special Business Districts, as set forth in the Town of Geneva Zoning Law.

**Industrial/Agricultural Zones:** The A – Agriculture and I-1 Industrial Districts, as set forth in the Town of Geneva Zoning Law.

**Continuous Sound:** Any sound that is not impulsive.

**DBA:** The abbreviation for a weighted sound level in decibels.

**Fast Response:** The characteristic of a sound level meter which allows for accurate measurement of impulsive sounds such as a horn blasts, explosive sounds, firearm discharges or passing motor vehicles.

**Impulsive Sounds:** Characterized by excursions of the sound pressure which exceed the ambient by six or more decibels, but that last two seconds or less.

**Industrial/Agricultural Operation:** Production, fabrication and storage of man-made goods, the production, transformation and storage of energy in all forms, and farm equipment used in farming operations.

**Maximum Sound Level:** Recorded or noted maximum RMS(room-mean-square) sound pressure level noted using an instrument which meets requirements. Maximum impulsive sound shall be measured using the fast response setting. Maximum continuous sound level shall be measured using the slow response setting.

**Real Property Boundary:** Imaginary line exterior to any structure along the ground surface which separates the real property owned by one person from that owned by another person and vertical extension of such a line.

**Receiving Land:** The property line of the real property where the sound is being heard and where appropriate level restrictions apply. In the case of any apartment, townhouse or condominium the point of measurement is within the affected unit.

**Sound Level:** The quantity in decibels, measured using an instrument(ANSI SI. 4-1983) sound level is the frequency weighted sound pressure level obtained with fast or slow response.

**Sound Level Meter:** An instrument designed to detect and measure sound pressure levels and display this information in decibels, either in analog or digital form (ANSI SI.4-1983, Type 1 or 2).

**B. STANDARDS:**

The following tables set forth the maximum permissible sound levels by a receiving land. Any noise source that produces sound in excess of those levels, as measured within the boundary of the receiving land shall constitute a violation of this law.

**TABLE I:**

A. Continuous Sound: Slow response meter level.

Land Uses	Maximum Sound in DB(A)
	<u>Night</u>
Residential Zones	65
Commercial Zones	75
Industrial/Agricultural Zones	90

B. Impulsive Sound – fast response meter level.

Land Uses	Maximum Sound in DB(B)
	<u>Night</u>
Residential Zones	85
Commercial Zones	90
Agricultural/Industrial Zones	100

With impulsive noise, the following adjustment levels shall apply:

- 3 -10 repetitions per hour deduct 1 DB
- 11 -20 repetitions per hour deduct 2 DB
- 21- 60 repetitions per hour deduct 3 DB
- Over 60 repetitions per hour deduct 4 DB

C. Where ambient (background noise) level for receiving land exceeds the standards, the following maximum sound levels shall apply:

- 1. Any continuous sound which exceeds the ambient by 10 DB or more.
- 2. Any impulsive sound which exceeds the ambient by 20 DB or more.

D. The above conditions listed in C shall not apply to noise emanating from agricultural or industrial operations.

**106-5. EXCEPTIONS:**

- A. There shall be excepted from compliance with this ordinance all vehicles and machinery used in conducting an actual farm operation within the Town of Geneva, vehicles used for delivery of produce, equipment or inventory Traveling on State Highways or County Roads traveling through the Town of Geneva. Vehicles and equipment operated by the Town of Geneva employees or contractors of the Town in the course of conducting Town business and vehicles and equipment operated by employees of the State of New York, contractors of the State of New York in the course of conducting state business such as snow removal. A business located in a Business Zone (B1 or B2), a business located in other zones except when subject to a special use permit, industrial or manufacturing operations when located in an Industrial Zone (A-1) and farming operations.
- B. Any person, firm, corporation or party that properly files an operating permit with the Town may be exempt from the provisions for the time period specified in the permit.

**106-9. ENFORCEMENT:**

A. Any person, firm, partnership, corporation or other party who violates any provision of this chapter shall be guilty of a violation and subject to a fine of not less than \$50 nor more than \$100 for the first offense. Any subsequent violation of the provisions of this chapter shall be a violation and, upon conviction, such person shall be subject to the penalties prescribed in Chapter 1, General Provisions, Article III. The imposition of any such penalty for the violation of this chapter shall not excuse such violation nor permit the continuance thereof. The application of the above penalty or penalties for a violation of the provisions of this chapter shall not be held to prevent the removal of conditions prohibited by this chapter by such legal means as may be proper.

B. This chapter shall be administered and enforced by the Ontario County Sheriff’s Department, the New York State Police or any law enforcement agency.

Section 2. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 3. This local law shall take effect immediately upon filing with the Secretary of State.

**18) REQUEST TO REPAIR THE HIGHWAY GARAGE ROOF:** Highway Superintendent David Achilles submitted the following bids:

- 1. Proctor Roofing Contracting \$13,500.00
- 2. Hibbs Contracting \$13,140.00
- 3. D.E. Miller Co. \$12,480.00

Motion to approve D.E. Miller Co. to repair the Highway Garage Roof and pay for it out of this year’s budget for the cost of \$12,480.00. Motion made by Councilman Vassello second by Councilman Larsen.

**Discussion:** Highway Superintendent, David Achilles explained to the board six years ago the roof was patched at no cost. In the years 2007 & 2008 David requested that money be set aside for building repairs now the roof leaks and water is endangering the electric box.

I, Lorrie S. Naegele, Town Clerk of the Town of Geneva, do hereby certify that the aforementioned resolution, was adopted by the Town Board of the Town of Geneva on September 8, 2009, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	<u>      </u>
Anthony Capozzi	<u>      </u>	<u>X</u>
Richard Larsen	<u>X</u>	<u>      </u>
Edward Smaldone	<u>X</u>	<u>      </u>
Michael Vassello	<u>X</u>	<u>      </u>

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Lorrie S. Naegele, Town Clerk

**19) SUPERVISORS REPORT:** Motion made by Councilman Smaldone second by Councilman Larsen.

**Discussion:** Supervisor Luckern set a Special Meeting on Monday, September 28, 2009 at 12:00 noon to file the Tentative Budget with the Town Clerk and the Town Board. The County is also working on their budget. Due to the economy, all community college enrollment, including FLCC, is rising. Motion unanimously approved.

**20) CORRESPONDENCE:**

- 1) Lt. Gallagher's Report (REFER TO ADDENDUM # 8)
- 2) Liquor License Application/Renewal-Geneva Country Club, Lochland Road, Geneva, NY 14456

**21) OLD BUSINESS:** Supervisor Luckern reminded the residents that the Town Board does not vote after the Public Hearings. The Board will vote at the next meeting after taking into consideration what the residents have to say. The Farm Protection Plan will have some more changes with the help from John Brennan, Director of NYS Farm Protection in Albany. John Brennan toured the town and was impressed with the size and the quality of the farm operation the Town has and he is revising the plan that we had.

Councilman Larsen discussed a letter that the board received from Carole Higgins. One issues was that a ten day advanced notice of a Public Hearing was not done. Jeff Graff, Town Attorney, explained that a Subdivision Law does not require a ten-day notice prior to a Public Hearing but rather only a five-day notice on the subdivision itself. Councilman Larsen said that the letter also asked about an orange construction fence. On January 25, 2008, the applicant's engineer agreed to provide fencing along the hedgerow to insure this area remains undisturbed but Rick visited the property and saw no fence. Carole Higgins claimed that High Acres is in violation again by not having the fence and disturbing and cutting the hedge. Supervisor Luckern explained in the minutes of the Planning Board it stated that Bill McAdoo could enforce the site plan. Councilman Capozzi asked, "Are they doing work on the property without site plan approval?" Bill McAdoo replied, "No they are not doing work." Councilman Capozzi stated that they are doing site work without site plan approval and they shouldn't be. Bill McAdoo said he would look into it. Supervisor Luckern had already spoke to Carole Higgins about the letter.

**22) NEW BUSINESS:** None

**23) PRIVILEGE OF THE FLOOR:** Roma Collins-Pre-Emption Road: A request to the Board to see about putting a double solid line in front of the Mobile Home Park on Pre-Emption Road for safety purposes. Supervisor Luckern said she would contact Bill Wright from Ontario County to see what can be done.

Steve Hall, Attorney for DC3 LL3: One issue on Carter Road is the handling of the subdivision. On August 17, 2009, his client was orally advised by CEO Bill McAdoo and Supervisor Luckern that the S124-09 Subdivision

would be removed from the agenda for the August 18, 2009 Planning Board Meeting, pending a rezoning of the property. He stated that the Town Planning Board Chairman would not return any of his calls or send any letter  
*Continued minutes Town Board Meeting September 8, 2009*

explaining why the subdivision was put on hold. Mrs. Fienberg, the Town Attorney, discussed issues with Dan Hackett and Steve Hall about the handling of the subdivision at the Planning Board meeting.

Carole Higgins-Snell Road: “How many attorneys does the Town have?” Supervisor Luckern stated that Mrs. Fienberg is a special attorney that handles the zoning.

Garrett Foe- Lyons Road: Garrett distributed pictures of the property next to his owned by Howard & Ida Akins. There are abandoned vehicles, a collapsed garage with debris, and a distinct odor of oil and solvents coming from the garage. This property is not only an eye sore but is also a health, safety and environmental issue.

Garrett states that he is proud of the standards that the Town of Geneva sets so he asks the Town Board to please not lower its standards for this piece of property. Supervisor Luckern asked Bill McAdoo where the town stands on this issue. Bill replied, “They were violating the violation notice and he and the NYS DEC officer are following up on it.” Supervisor Luckern told Bill McAdoo to follow up on it right away.

Sophia Elkin-West Lake Rd: Sophia questioned the Farm Protection Plan, concerned that some of the information was not available. Supervisor Luckern explained that they have not completed the plan and it is still in draft form and more work will still to be done on it.

Lorrie S. Naegele, Town Clerk: Lorrie announced to the Board that the Town Clerk office hours would start at 7:30 a.m. until 1:30 p.m. Monday thru Friday.

**24) ADJOURN:** Motion to adjourn made by Councilman Smaldone second by Councilman Capozzi.  
Motion unanimously approved. **8:30 P.M.**

RESPECTFULLY SUBMITTED