

**Regular Meeting**  
Geneva Town Board  
3750 County Road #6  
Geneva, NY 14456  
**July 14, 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: Twenty five town residents; David Achilles, Highway Superintendent; Charlie Bracko, Water & Sewer Superintendent; John Russo, Zoning Board Chairman; Howard Meaker, Ontario County Election Custodian; Pat Mahoney, Planning Board Member; Mike Guyon, MRB Engineer; William McAdoo, Code Enforcement Officer; David Taube, Finger Lakes Times Reporter.

1) **CALL TO ORDER:** Supervisor Luckern called the meeting to order at 7:00 P.M. The meeting was opened with the Pledge of Allegiance.

2) **Presentation: by the Fall Harvest Committee Members,** Lynda John and Beverly Young informed the Town Board how this year the festival was being expanded. The committee has about twelve members and everyone is welcome to attend meetings and help develop this community event. The Harvest Festival date is Sunday, September 27 from 1:00-6:00 PM. There are twenty-eight vendors, ten educational displays, food, entertainment and a giant pumpkin contest. There is no charge to the public. Motion to approve up to \$2500 for the Town of Geneva Harvest Festival. Motion made by Councilman Capozzi second by Councilman Larsen.

**Discussion:** None

Motion unanimously approved.

3) **ACCEPTANCE OF THE MINUTES:** RESOLVED, that the Minutes of the Regular Meeting June 9, 2009 and the Special Meeting June 22, 2009 be approved and accepted. Motion made by Councilman Smaldone second by Councilman Capozzi.

**Discussion:** None

Motion unanimously approved.

Supervisor strayed from agenda, this was Item 23 on the Agenda.

4)-23) **TOWN'S INSURANCE POLICY WITH C. S. BURRALL & SON, INC:** Motion to approve the Town's Insurance Policy with C.S. Burrall & Son, Inc. for August 15, 2009 – August 15, 2010. Motion made by made by Councilman Smaldone second by Councilman Larsen.

**Discussion:** Tom Burrall explained that there was a 5% rate reduction.

Motion unanimously approved.

5) **RECEPTIONIST'S JUNE 2009 REPORT:** (REFER TO ADDENDUM # 1)

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

**Discussion:** None

Motion unanimously approved.

**6) TOWN CLERK'S JUNE 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 JUNE 2009 REPORT :(REFER TO ADDENDUM # 3)**

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

**Discussion:** CEO, Bill McAdoo, spoke about: Puppy Mills. The Town Attorney is working on a potential Special Use Permit that will go to the Planning Board and then to the Town Board for approval into a Local Law. Wal-Mart has been issued a conditional building permit; the contractor is yet to be determined. Wal-Mart will start in August and the project will take one year to complete. Microtel's second floor is going up today and everything is going well.

Motion unanimously approved.

**8) AUTHORIZE TO APPROVE BILLS: RESOLVED, that the bills are presented for payment on Abstract 008-2009 from voucher # 704 through # 790.**

FUND	VOUCHER #	TOTALS
A General Fund	(763&769-788)	\$ 18,043.44
DA Highway	(728-743)	\$ 4,012.70
SS Sewer District	(744-756)	\$ 1,614.13
SWD Water Storage & District	(757-768 & 790)	\$ 9,313.49
GRANT Farm Land Protection Grant	(789)	\$ 17.91
<b>TOTAL</b>		<b>\$ 33,001.67</b>

**TOTALS**

ABSTRACT: 07 –2009; July 2009 voucher # 728 to 790	\$ 33,001.67
PRE-PAID –July and August voucher # 704 to 727	\$ 61,385.60
<b>AUGUST - TOTAL</b>	<b>\$ 94,387.27</b>

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

**Discussion:**

Motion unanimously approved.

**9) MODIFIED WATER DISTRICT # 12: PROPOSAL FOR \$6,700 WITH STUART L. BROWN:**

(REFER TO ADDENDUM #4) Motion to approve a Proposal for services for EPA and USDA applications for the Modified Water District # 12 with Stuart L. Brown Associates, Inc. for \$6,700 made by Councilman Smaldone second by Councilman Capozzi.

**Discussion:** Mike Guyon from MRB, referred to addendum #4 Data Sheet. Eventually this water will extend to the end of the Town of Geneva town line and all side roads. A 2" line will go up Healey Road to the Adsitt property, the last property in the town on that road. The main line is 12" and Braewood Lane will have 8" line.

Motion unanimously approved.

**10) RESCIND RESOLUTION NO. 5A-2009: Letter from Mike Guyon and revised SEQR PART III (REFER TO ADDENDUM #5) Motion to rescind RESOLUTION NO. 5A-2009 dated June 9, 2009; the negative response to High Acres SEQR's Part III. Motion made by Councilman Smaldone second by Councilman Vassello.**

**Discussion:** Mike Guyon, MRB, explained, High Acres PUD, SEQR Part 3 stated, “A Balloon was floated to the proposed height of the SLC building at its proposed location in order for the Town to observe and relate the building height and location to the surroundings.” When researching their records, they could find no evidence that a balloon test was conducted. The Town attorney indicated the Town Board should take the following steps to rectify the inaccuracy.

Carole Higgins, Snell Road: Carole read from documents dating from February 22 & 26, 2008 and March 14, 2008 that the balloon test had been done. Due to this error, Carole questioned what else could have been missed. Carole asked the Board to consider a positive deck for a Full Environmental Impact Study to be done. Peter Vars, BME Associates and also an engineer for FLH, stated the Planning Board meeting March 18, 2008 read as follows “Elevation would be cut 10’ and will be 28.5’ higher than existing grade which puts it at about the same height as a house. Balloon test will not be necessary.” The Planning Board made the decision. Carole Higgins replied that at the June meeting they made a false statement when Peter Vars stated the balloon test was completed.

Howard Kates, project coordinator for the High Acres project: Howard said, “From the beginning the Hospital has completed every single request from the Planning Board to the Town Board and the site plan approval.” “I take issue with the innuendo that we are hiding something, we have provided every request in detail.”

Councilman Capozzi stated that he thinks that they should do a Full Environmental Impact Study.

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 July 14, 2009, by the following vote:

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

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

11) **RESOLUTION NO. 08-2009 HIGH ACRES SEQR’S PART III:** Motion to approve RESOLUTION NO. 08-2009 Made by Councilman Smaldone second by Councilman Vassello.

**TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD  
RESOLUTION No. 8-2009**

**WHEREAS**, on June 9, 2009, the Town of Geneva Town Board passed Resolution No. 5A-2009 which accepted Part III of the Environmental Assessment Form being prepared for Local Law No. 2 of 2009 amending a portion of the Town of Geneva Zoning Map to Create a Planned Unit Development District relative to the High Acres project; and

**WHEREAS**, Part III contained a factual error and the Town Board is now desirous of correcting the public record.

**NOW, THEREFORE, BE IT RESOLVED** that Resolution No. 5A-2009, adopted June 9, 2009, accepting the aforesaid Part III of the Environmental Assessment Form, is hereby repealed; and be it further

**RESOLVED**, that Part III, as corrected, of the Environmental Assessment Form being prepared for Local Law No. 2 of 2009 amending a portion of the Town of Geneva Zoning Map to Create a Planned Unit Development District relative to the High Acres project, is hereby accepted.

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 July 14, 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: JULY 14, 2009

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

12) **RESCIND RESOLUTION NO. 6-2009:** Motion to rescind RESOLUTION NO. 6-2009 Determination of Significance of Local Law No. 2 of 2009. AND

13) **RESOLUTION NO. 9-2009 SIGNIFICANCE OF LOCAL LAW NO. 2 OF 2009:** Motion to approve RESOLUTION NO. 9-2009 Made by Councilman Smaldone second by Councilman Vassello.

**TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD  
RESOLUTION NO: 9 -2009**

**RESOLUTION OF THE TOWN BOARD OF THE TOWN OF GENEVA,  
ONTARIO COUNTY, NEW YORK,  
DETERMINATION OF SIGNIFICANCE – LOCAL LAW NO. 2 OF 2009**

**WHEREAS**, on June 9, 2009, the Town of Geneva Town Board passed Resolution No. 6-2009 which made a declaration of non-significance relative to the SEQR review done by the Town Board for Local Law No. 2 of 2009 amending a portion of the Town of Geneva Zoning Map to Create a Planned Unit Development District relative to the High Acres project; and

**WHEREAS**, Resolution No. 6-2009 was premised upon Resolution No. 5A-2009 approving the Part III to the Environmental Assessment Form on this project, which resolution has now been repealed due to said Part III containing a factual error; and

**WHEREAS**, the Town Board has, immediately previous to considering this Resolution, adopted a new resolution approving a corrected Part III to the aforesaid Environmental Assessment Form; and

**WHEREAS**, the Town Board now desires to have the foregoing resolution be adopted so that its finding of non-significance is premised upon the corrected Part III that has, previous to this resolution, been accepted by this Board; and

**WHEREAS**, the Town of Geneva Town Board has determined Local Law No. 2 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 Resolution No. 6-2009, adopted June 9, 2009, making a determination of non-significance relative to the SEQR review done by the Town Board for the aforesaid project, is hereby repealed; and

**BE IT FURTHER 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; and

**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 July 14, 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: July 14, 2009

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

**14) RESCIND RESOLUTION NO. 7-2009 AUTHORIZING ADOPTION OF LOCAL LAW 2-2009:** Motion to rescind RESOLUTION NO. 7-2009 Authorizing Adoption of Local Law No. 2 of 2009.  
AND

**15) RESOLUTION NO. 10-2009 AUTHORIZING ADOPTION OF LOCAL LAW 2-2009:** Motion to approve RESOLUTION NO. 10-2009 Made by Councilman Smaldone second by Councilman Larsen.

**TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD  
RESOLUTION NO: 10 -2009**

**RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF GENEVA OF LOCAL LAW NO. 2 OF 2009 WHICH WILL AMEND A PORTION OF THE TOWN OF GENEVA ZONING MAP TO CREATE A PLANNED UNIT DEVELOPMENT DISTRICT**

**WHEREAS**, on June 9, 2009, the Town of Geneva Town Board passed Resolution No. 7-2009 which adopted Local Law 2 of 2009 entitled, “A Local Law to Amend a Portion of the Town of Geneva Zoning Map to Create a Planned Unit Development District”; and

**WHEREAS**, Resolution No. 7-2009 was premised upon Resolution No. 5A-2009 approving the Part III to the Environmental Assessment Form relative to the High Acres project and Resolution No. 6-2009 making a determination of non-significance relative to the SEQR review done by the Town Board relative to this project, both of which resolutions have now been repealed due to said Part III containing a factual error; and

**WHEREAS**, the Town Board has, immediately previous to considering this Resolution, adopted a new resolution approving a corrected Part III to the aforesaid Environmental Assessment Form and a new resolution making a determination of non-significance relative to the SEQR review done by the Town Board relative to this project and premised upon the newly approved, corrected Part III; and

**WHEREAS**, the Town Board now desires to have the foregoing resolution be adopted so that its adoption of Local Law 2 of 2009 is premised upon the corrected Part III; and

**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 April 14, 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 to Create a Planned Unit Development District; and

**WHEREAS**, notice of said public hearing was duly advertised in the official newspaper of the Town of Geneva, on April 2, 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 April 14, 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 Resolution No. 7-2009, adopted June 9, 2009, adopting Local Law 2 of 2009, is hereby repealed; and be it further

**RESOLVED**, that the Town Board of the Town of Geneva hereby adopts said Local Law No. 2 of 2009, entitled, "A Local Law to Amend a Portion of the Town of Geneva Zoning Map to Create a Planned Unit Development District", 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 July 14, 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: July 14, 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. 2 of the year 2009.**

A local law **"To Amend a Portion of the Town of Geneva Zoning Map to Create a Planned Unit Development District"**

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

County

City

**Town** of **Geneva**

as follows:

Village

Section 1. In accordance with Section 116-10 of the Planned Unit Development Law and Section 165-5 and Article XI of the Zoning Code of the Town of Geneva, the Zoning Map of the Town of Geneva is hereby amended as follows:

- A. The Planned Unit Development District previously created for High Acres at Seneca Lake on Snell Road is hereby repealed and the property encompassing this PUD District is hereby reverted to its previous R-1 Residence Zoning District classification.
- B. The property shown in the attached map entitled Revised PUD Final Plans High Acres at Seneca Lake is hereby rezoned from R-1 Residence District to Planned Unit Development District.

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.

**16) SCHEDULE A PUBLIC HEARING FOR THE FARM PROTECTION PLAN:** Motion to schedule a Public Hearing for the Farm Protection Plan on September 8, 2009. Motion made by Councilman Smaldone second by Councilman Capozzi.

**Discussion:** Hugh Price, Chairman of the Town of Geneva Agricultural Enhancement Committee: Hugh explained that with the Farm Protection Plan in place, NYS Ag & Markets will have the documentation they need, so if they do have a (PDR) Property Development Rights Program the mechanism is in place for anyone in the town that wants to apply for a PDR. Until this document gets to NYS Ag & Markets, the residents cannot apply. Councilman Larsen stated, "Very nice job, I know you put a lot of time in this document." Rick asked Hugh to clarify if, "The PDR, is a program for the farmers who want to be partners with the state and also want to put their land in Ag forever. Will the state then pay that farmer so much per acre?" Hugh replied, "That is correct." Rick asked Hugh, "The Town would not participate in that at all, would they?" Hugh replied, "The Town has the option to participate in it. The State puts up 75% and whether it's the Town or the individual, they would put up the other 25%." Rick asked, "The 25% cost would be to the Town?" Hugh replied, "Not necessarily." Rick asked, "The 75% and the 25%, are we talking so much an acre?" Hugh replied, "Yes, what they do is get two appraisers for the property, one for agricultural value and one for the development value." Hugh states, "What they are talking about is the difference between those two appraisals. Then the State would put up 75% and somebody, whether

the Town, individual or even a conservation easement with Finger Lakes Land Trust, would put up the other 25%.”

Councilman Larsen had questions on the **DRAFT Right To Farm Law:**

Page 2-“AGRICULTUR PRACTICES” “the collection, transportation, distribution and storage of animal and poultry waste.” Councilman Larsen asked, “If you spread liquid manure is there regulations on when that has to be plowed under?” Hugh replied, “Yes.” Bill McAdoo, Code Enforcement Officer, explained, the farm property owner has to have a plan on file with the Farm Bureau that must be followed and that Agency would enforce that that plan be followed. Councilman Larsen asked, “How long do they let that set on the fields, a week, a day?” Bill McAdoo replied, “ They encourage the owner to disc or plow it under as quick as possible; they have very complex regulations.”

Page 3- ITEM #5: “Occasional travel inconveniences due to weather conditions (e.g. extreme heat, rain, mud) are to be expected on highways in the Town of Geneva.” Rick said, “ I understand farming and big mud clumps are dangerous for motorists, are they going to be allowed on Town Roads?” David Achilles, Highway Superintendent, replied, “ No, the farmers have to make sure that they are scrapped off before days end.” Hugh Price stated, “This plan is a mechanism, so if there is a complaint it will go to an advisory committee and they will sort it out.” Councilman Larsen stated that he is just concerned about safety. Councilman Larsen asked if the Board was going to pick an advisory committee. Supervisor Luckern replied, “Yes, it will be made up of farmers.”

Page 5- ITEM #2 : “The Town Board shall review the controversy with a report from the proceedings of the Agricultural Advisory Committee. Within (30) days of the written request, the Town Board shall render a written decision to the parties.” Councilman Larsen said, “I was wondering if thirty (30) days is sort of a tight schedule for that?” Bill McAdoo stated, “If a farmer had a dispute, there is no local agency to mitigate it. So once the Right To Farm Law is passed and the committee is put together, the complaint is received, and the committee will respond to the complaint. If the committee could not get it resolved after (30) days, then it would come back to the Town Board.”

Motion unanimously approved.

**TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD  
RESOLUTION NO. 11 – 2009**

**TOWN OF GENEVA  
NOTICE OF PUBLIC HEARING**

**PLEASE TAKE NOTICE**, that a public hearing will be held by the Town Board of the Town of Geneva on the 8<sup>th</sup> day of September, 2009, at 7:00 p.m., at the Geneva Town Hall, 3750 County Road 6, Geneva, New York, regarding the adoption of a Farm Protection Plan which would establish short and long term goals for farm protection in the Town of Geneva.

Any resident of the Town of Geneva shall be entitled to be heard upon said proposed Farm Protection Plan at such public hearing. Copies of said proposed Farm Protection Plan are available for review at the Town of Geneva Town Hall, 3750 County Road 6, Geneva, New York 14532.

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 July 14, 2009, by the following vote:

	<u><b>Aye</b></u>	<u><b>Nay</b></u>
Mary Luckern	<u>  X  </u>	<u>      </u>
Edward Smaldone	<u>  X  </u>	<u>      </u>
Michael Vassello	<u>  X  </u>	<u>      </u>

Richard Larsen  
Anthony Capozzi

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

Dated: July 20, 2009

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

Posted: July 20<sup>th</sup> 2009

**17) SCHEDULE A PUBLIC HEARING FOR THE NOISE ORDINANCE:** Motion to accept the revised #3 Draft revised July 7, 2009 Noise Ordinance and schedule a Public Hearing for the Noise Ordinance on August 11, 2009. Motion made by Councilman Capozzi second by Councilman Larsen.

TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD

**RESOLUTION NO. 12 – 2009**

**RESOLUTION AUTHORIZING SCHEDULING OF PUBLIC HEARING FOR PROPOSED LOCAL LAW TO ADOPT NOISE REGULATIONS**

**WHEREAS**, the Town Board of the Town of Geneva, after due deliberation, finds it in the best interests of the Town to schedule a public hearing to solicit public comment upon a proposed Local Law To Adopt Noise Regulations; and

**WHEREAS**, the Town Board of the Town of Geneva has reviewed the draft of the aforementioned proposed Local Law attached hereto as Exhibit "1" and deems it in the best interests of the Town of Geneva to proceed in accordance with the Code of the Town of Geneva and the Laws of the State of New York in adopting said Local Law,

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Clerk be, and she hereby is, directed to schedule a public hearing to be held on August 11, 2009, at 7:00 p.m. at the Geneva Town Hall, 3750 County Road 6, Geneva, New York; and be it further

**RESOLVED**, that the Town Clerk, be and hereby is, authorized to forward to the official newspapers of the Town a Notice of Public Hearing in the form substantially the same as that attached hereto as Exhibit "2"; and be it further

**RESOLVED**, that the Town Clerk be, and she hereby is, directed to post a copy of the proposed Local Law on the Town of Geneva sign board and take any and all other necessary actions to properly bring the aforementioned Local Law before the Town Board of the Town of Geneva for its consideration; and be it further

**RESOLVED**, that the Town Clerk be, and hereby is, authorized to provide all other notices as required by law for the adoption of this local law.

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 July 14, 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: July 16, 2009

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

(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.

County

City

**Town of Geneva**

Town

Local Law No. \_\_\_\_ of the year **2009**.

**A local law "Adopting Noise Regulations"**

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

County

City

**Town of Geneva**

as follows:

Village

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.

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**18) SCHEDULE A PUBLIC HEARING TO REZONE A SECTION OF CARTER ROAD:** Motion to accept a recommendation to rezone a section of Carter Road and set a Public Hearing for August 11, 2009. Made by Councilman Capozzi second by Councilman Larsen.

**Discussion:** Councilman Larsen asked, “If the proposed zoning change was approved the way the new map shows, and a person on Carter Road had a building lot less than 33,000 Sq. feet and they wanted to put an addition on it, would that be acceptable?” Mike Guyon, MRB, said, “They will be subject to some zoning requirements as long as they meet the new zoning requirements, other wise they will need to get a variance.” Councilman Larsen asked, “In a R1 zone you need a lot size of 33,000 sq. feet and R2 zone you need a lot size of 15,000 sq. feet so if anyone has a lot smaller than 33,000 sq feet they will need to get a variance from the Town?” Mike Guyon, replied, “Yes.”

Dan Hackett, Castle Road; Dan commented that he owns the land known as Castle Brook, which was a plan that was preliminary approval by the Town Board. Dan stated, “Noted in the minutes of the Special meeting June 22, 2009, Supervisor Luckern asked Mike Guyon to meet along with Councilman Capozzi and me to work on an alternative map to bring back to the Town Board, but that did not happen.” “The map that I am seeing tonight is no map that I worked on with this board to bring back to the Town to be discussed.” “The other thing I would like to discuss, it appears that everyone’s upset about the apartments built by Conifer, that is stated and fact in record at the Special Meeting June 22, 2009, so that is really the catalyst of what is going on here and no one person should be penalized.” Dan suggested on the Towns planning process to have a little tighter, more stringent contingencies and considerations when giving approvals and the Town should not go against the Town Comprehensive Plan as adopted by this municipality.

John Russo, Carter Road: Said, “Mr. Hackett is incorrect, there are only two properties that meet the requirements of the R1 zone.” “ All the properties along Carter Road are 150’x 250’ from the firehouse to Mr. Riley’s house.” “The Castle Brook property is also for sale and it has been five years since the Planning Board gave him pre approval.”

Pat Riley, Carter Road: Said, “The Town should have some foresight to watch over and watch out for the Town residents and not the interest of the developers.” “If it is in the best interest of the Town to decide to change the zoning so it no longer permits multiple family dwellings or the type of development that is going in behind the firehouse that is up to the Town. If the developers want to come to this Town and present something that’s fine, but it’s not fine for the Town to represent the developers.”

Supervisor Luckern stated, “This is a difficult decision, when we looked at Castle Brook it was an excellent thing at that point.” “I think we have a good Comprehensive Plan, but I hate to think that we have a Comprehensive Plan that we never can alter at all.” “Several things have happened out there since Castle Brook was approved and a great deal of money was spent by the developers and I appreciate that.” “Rosewood Drive was developed, the Community Center and now Conifer came on. Now all of a sudden when you look out there you see the area has changed since we talked about Castle Brook.” “I agree with Pat Riley, we have a responsibility to the developers, we also have a responsibility to the people and the citizens who live out there.”

**TOWN OF GENEVA, NEW YORK  
RESOLUTION OF THE TOWN BOARD  
RESOLUTION NO. 13– 2009**

**RESOLUTION AUTHORIZING SCHEDULING OF PUBLIC HEARING FOR PROPOSED LOCAL LAW TO AMEND A PORTION OF THE TOWN OF GENEVA ZONING MAP**

**WHEREAS**, the Town Board of the Town of Geneva, after due deliberation, finds it in the best interests of the Town to schedule a public hearing to solicit public comment upon a proposed Local Law To Amend a Portion of the Town of Geneva Zoning Map; and

**WHEREAS**, the Town Board of the Town of Geneva has reviewed the draft of the aforementioned proposed Local Law attached hereto as Exhibit "1" and deems it in the best interests of the Town of Geneva to proceed in accordance with the Code of the Town of Geneva and the Laws of the State of New York in adopting said Local Law,

**NOW, THEREFORE, BE IT RESOLVED**, that this proposed Local Law be sent to the Town of Geneva Planning Board in accordance with Section 165-75 of the Town of Geneva Zoning Law for that Board to provide the Town Board with its recommendations thereon; and be it further

**RESOLVED**, that this proposed Local Law be sent to the Ontario County Planning Board for that Board to provide the Town Board with its recommendations thereon; and be it further

**RESOLVED**, that the Town Clerk be, and she hereby is, directed to schedule a public hearing to be held on August 11, 2009, at 7:00 p.m. at the Geneva Town Hall, 3750 County Road 6, Geneva, New York; and be it further

**RESOLVED**, that the Town Clerk, be and hereby is, authorized to forward to the official newspapers of the Town a Notice of Public Hearing in the form substantially the same as that attached hereto as Exhibit "2"; and be it further

**RESOLVED**, that the Town Clerk be, and she hereby is, directed to post a copy of the proposed Local Law on the Town of Geneva sign board and take any and all other necessary actions to properly bring the aforementioned Local Law before the Town Board of the Town of Geneva for its consideration; and be it further

**RESOLVED**, that the Town Clerk be, and hereby is, authorized to provide all other notices as required by law for the adoption of this local law.

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 July 14, 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: July 16, 2009

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

**FILING LOCAL LAW**  
**DRAFT July 09, 2009**

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**  
Village

Local Law No. 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)

County

City

**Town of Geneva** as follows:

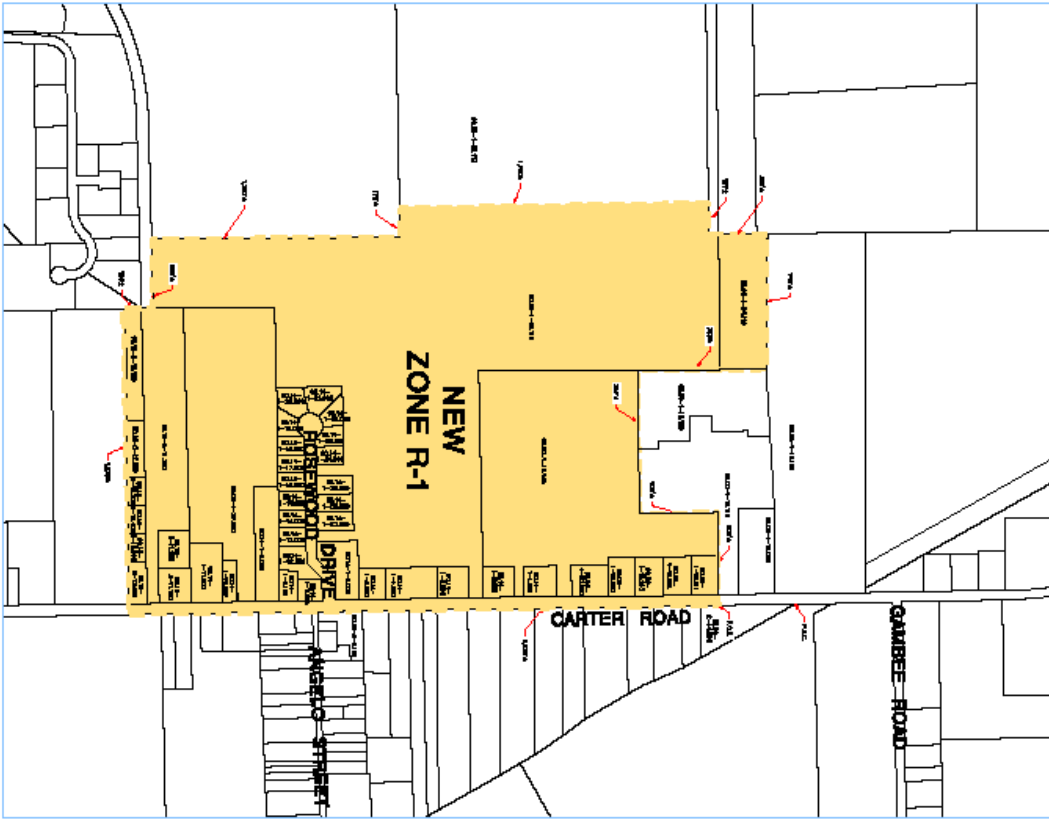
Section 1. In accordance with Article XI of the Town of Geneva Zoning Law, the Zoning Map of the Town of Geneva is hereby amended by changing a portion of the R-2 Residence District to R-1 Residence District, said portion being situated along a portion of the west side of Carter Road, said portion being 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
90.14-1-13.000	Sharon DeRosa	542 Rosewood Dr	90.00-1-2.000	Carman Guererri	216 Carter Rd
90.14-1-20.000	Nicholas Amatulli	570 Rosewood Dr	90.14-1-24.000	Salvation Army	557 Rosewood Dr

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.

**Proposed Zoning**



PARCEL ID	OWNER NAME
90.00-1-18-140	Estate Thomas Ferraro
90.00-1-18-211	Francis Acquilano
90.00-1-18-212	Francis Acquilano
90.00-1-18-213	Dino DeVullo
90.00-1-18-220	John Russo
90.00-1-20-000	Raphaela Seymour
90.00-1-27-000	Boys & Girls Club of Geneva
90.14-1-1-000	Donald Guentert
90.14-1-2-000	Carmen Guentert
90.14-1-3-000	Dale Riley
90.14-1-4-000	Thomas Riley
90.14-1-5-000	Patrick Riley
90.14-1-6-000	Geneva Home Builders
90.14-1-7-000	Sharon Hornbeck
90.14-1-8-100	Jas Swartwood
90.14-1-9-000	Joan Scott
90.14-1-10-000	Mary E. Damick
90.14-1-11-000	Jessica Ferraro
90.14-1-12-000	MaryLou Durnbilton
90.14-1-13-000	Sharon DeFosa
90.14-1-14-000	Robert & Jane Box
90.14-1-15-000	Steve DeFaddo
90.14-1-16-000	Edward McGuigan
90.14-1-17-000	Phillip Choffin
90.14-1-18-000	Elizabeth DiFederico
90.14-1-19-000	Scott Mackenzie
90.14-1-20-000	Nicholas Amatulli
90.14-1-21-000	John Cosentino
90.14-1-22-000	Brian Nault
90.14-1-23-000	Kenneth Woznick
90.14-1-24-000	The Salvation Army
90.14-1-25-000	Cynthia Madia-White
90.14-1-26-000	Geneva Home Builders
90.14-1-27-000	Michael Hibbard
90.18-5-11-100	Anthony Yannotti
90.18-5-11-200	Gregory Burges
90.18-5-11-300	Gregory Burges
90.18-5-12-100	Helen Garlick
90.18-5-12-200	Salvatore Cosentino
90.18-5-12-300	Paul Cosentino
90.18-5-12-400	Paul Cosentino
90.18-5-12-500	Helen Garlick
90.18-5-12-600	Thomas Tierney
90.00-1-54-119	Kenneth Nardozzi
90.00-1-56-113	DC3, LLC

PROJECT TITLE: CARTER ROAD REZONING R2 TO R1 TOWN OF GENEVA, ONTARIO COUNTY, NEW YORK

PROJECT NO: 07000

**MRB group**  
 Real Estate, Architecture, Surveying, LLC  
 1000 West Genesee Street, Suite 200, Geneva, NY 14456  
 Phone: 315-222-8888 Fax: 315-222-8889  
 Email: info@mrbg.com Website: www.mrbgroup.com

Drawn By: ocd  
 Checked By: KJZ  
 Scale: 1" = 500'  
 Date: 08/21/08

Project Title:  
**CARTER ROAD REZONING R2 TO R1  
 TOWN OF GENEVA  
 ONTARIO COUNTY, NEW YORK**  
 Drawing Title:  
**PROPOSED ZONING & PARCEL DATA**

No.	Revisions and Descriptions	By	Date

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**19) DOG ENUMERATION CONTRACT BETWEEN ONTARIO COUNTY HUMANE SOCIETY**

**AND THE TOWN OF GENEVA:** Motion to approve the agreement with the County Made by Councilman Capozzi second by Councilman Larsen.

**Discussion:** None

Motion unanimously approved.

AGREEMENT

THIS AGREEMENT, made as of the 14<sup>th</sup> day of July 2009, by and between the ONTARIO COUNTY HUMANE SOCIETY, INC., a New York Not for Profit corporation with its offices and principal place of business at 2876 County road #48, Canandaigua, New York 14424 (hereinafter referred to as the "Humane Society") and the Town of Geneva, a New York municipal corporation having its offices and principal place of business at 3750 County Road #6, Geneva, New York 14456 (hereinafter referred to as the "Municipality")

WHEREAS, it is required by New York State Agriculture and Markets Law to license all dogs four months of age or older; and

WHEREAS, the Municipality has determined that it is in the best public interest to have an accurate count of the number of dogs residing within the Municipality and that an Enumeration of all of the dogs within the Municipality by the Humane Society is the best method to do so; and

WHEREAS, the Municipal Board has determined that and that it is in the best public interest and, by resolution duly adopted, has authorized the execution of this Agreement:

NOW, THEREFORE, the parties hereto agree as follows:

1. The Humane Society hereby agrees to be responsible for the Enumeration of all of the dogs residing within the Municipality.

2. The Humane Society will provide one or more duly appointed Dog Control Officers, (the number of Dog Control Officers to be at the sole discretion of the Humane Society) to undertake this Enumeration.

3. Each Dog Control Officer shall have valid identification which shall identify that officer as a duly appointed Dog Control Officer.

4. Each Dog Control Officer shall be an employee of the Humane Society. The Humane Society shall be responsible for all aspects of employment of each such Dog Control Officer.

5. The Enumeration shall commence July 2009. The methods of enumeration are at the sole discretion of the Humane Society.

6. Under the execution of this Agreement, the Humane Society shall be solely responsible for the Enumeration of the dogs within the Municipality. There shall be no Law Enforcement obligations under this Agreement. This Agreement shall not supersede, amend, modify or in any way change any other Contract or Agreement between the Humane Society and the Municipality for the provision of Dog Control Services. In the event that the Humane Society and the Municipality are parties to any such Dog Control agreement, the provision of any services under that agreement shall be governed by that agreement.

7. Upon completion of the enumeration, the Humane Society shall present the Municipality with a report identifying all of the dogs it has enumerated within the Municipality.

8. Lorrie S. Naegele, Town Clerk, shall be the contact person for the Humane Society to whom to provide this report and shall provide the Humane Society with all documentation determined to be reasonably helpful to the Humane Society to complete its responsibilities under this agreement. This may include but shall not be limited to a current listing of all of the licensed dogs in the Municipality, their owners and addresses.

9. The report shall be provided in a format mutually agreeable to both parties.

10. The Municipality, acting by and through its Municipal Board for and in consideration of the services to be rendered by the Humane Society in furnishing and providing the within contemplated Dog Enumeration Report, hereby agrees to pay the Humane Society the total sum of \$3.50 for each dog enumerated, due and payable upon completion of the enumeration and submission of report of same.

11. This agreement shall terminate upon the presentation of the final report to the Municipality by the Humane Society.

12. The Humane Society agrees to procure, pay the premiums upon, and keep in force during the term of this Agreement, a policy or policies of insurance written by a company satisfactory to the Municipality, and naming as insured each of the parties hereto, whereby the insured are each protected against all liability for personal injury or property damage losses suffered by any person or persons as a result of negligent actions of any Dog Control Officer duly executing its responsibilities under this Agreement

13. It is the understanding of the parties that the Municipality has authorized the Supervisor of the Town of Geneva to execute this Agreement on its behalf, and that the Humane Society has authorized its President to execute this Agreement on its behalf.

14. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns.

15. This Agreement shall be subject to and governed by the laws of the State of New York.

16. This Instrument contains the entire agreement between the parties and may be changed only by agreement in writing, signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written,

Ontario County Humane Society, Inc.

By: \_\_\_\_\_

Town of Geneva

By: Mary Luckern, Supervisor

\_\_\_\_\_

**20) CHANGE IN SPEED LIMIT SIGN FOR ROUTE 14 SOUTH:** Motion to place a sign on Route 14 South notifying approaching traffic of a change in speed limits as they approach the City limits. Made by Councilman Capozzi second by Councilman Larsen.

**Discussion:** Councilman Vassello said, "I don't think the Town has the right to put up a sign on a state highway." Supervisor Luckern replied, "We will have to ask the state to do it." Councilman Vassello said, "This motion doesn't say that we will ask the state to put up a sign."

Motion rescinded by Councilman Capozzi second by Councilman Larsen.

**Motion** to request the state to place a sign on Route 14 South notifying approaching traffic of a change in speed limits as they approach the City limits. Also, have the Highway superintendent, David Achilles, to address the issue with New York State DOT. Motion made by Councilman Capozzi second by Councilman Larsen.

Motion unanimously approved.

**21) REDUCE SPEED LIMITS ON ARMSTRONG AND BILLSBORO ROADS:** RESOLUTION 14-2009 RE: To request NYS DOT to Authorize a Speed Reduction on Armstrong Road and Billsboro Road from 55 to 40 miles per hour. Made by Councilman Larsen second by Councilman Vassello.

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

**RESOLUTION NO: 14 –2009**

**WHEREAS**, The Geneva Town Board recommends a speed reduction on Armstrong Road and Billsboro Road; and

**RESOLVED**, That the Town Board hereby requests the New York State Department of Transportation to provide the necessary evaluations in order to lower the speed limit to 40 miles per hour on these roads; and be it further

**RESOLVED**, that the Town Clerk is hereby authorized to complete and submit the required TE-9 application to the Ontario County Department of Public Works.

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 July 14, 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: July 17, 2009

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

**22) SLOW CHILDREN SIGN ON SNELL ROAD:** Motion to place a Slow Children sign 100 feet east and 200 feet west of Orchard Park Drive on Snell Road made by Councilman Capozzi second by NONE.

**Discussion:** David Achilles, Highway Superintendent, stated that whenever there is a request for a sign he has to follow the New York State Manual of Uniform Traffic Control Devices (MUTCD), which regulates how all of the various types of traffic signs are to be used. The CHILDREN AT PLAY sign is not intended for general use in residential areas. The MUTCD states that they should be used where, “because of unusual conditions, motorists might not expect children playing in the vicinity of the roadway.” David has talked to the State and to the County and they do not put them up in residential areas. David said, “I am just following the set rules because if I don’t everyone will want one in front of their house.” Motion DIED.

**23) RESOLUTION NO. 15-2009- HEARING SET FOR DEMOLITION OF FINK’S GARAGE:**

Motion made by Councilman Smaldone second by Councilman Capozzi.

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

**RESOLUTION NO. 15-2009**

**WHEREAS**, Town Code Enforcement Officer, William N. McAdoo, prepared a written report to this Town Board dated June 12, 2009 (attached hereto and made a part hereof and hereafter referred to as the “Report”) which Report detailed his recommendation based on an inspection of the property located at 836 Route 5 and 20, Town of Geneva and the building located thereon consisting of a former garage (which property and building are hereinafter referred to as the “Property”), which inspection was conducted on May 12, 2009 by Floyd O. Herrick, Jr., P.E., CEO McAdoo and Mike Guyon of MRB Group, (said inspection hereinafter referred to as the “Inspection”) for purposes of complying with Chapter 68 of the Code of the Town of Geneva – Unsafe Buildings; and

**WHEREAS**, CEO McAdoo's Report and the accompanying Inspection Report prepared by Mr. Herrick and dated May 21, 2009 details the following:

1. That an inspection of the Property was conducted on May 12, 2009 by Floyd O. Herrick, Jr., P.E., CEO McAdoo and Mike Guyon of MRB Group;
2. That, based on the Inspection, the following conditions affecting the building on the Property were witnessed:
  - a. The second floor of the western section is supported by steel framing and steel pipe columns. The system has been exposed to the weather (no roof) for so many years that it may have lost 10% to 20% of its cross-section to corrosion.
  - b. Much of the southwest corner of the second floor has been covered with a concrete overlay that has developed a crack over every floor joist.
  - c. The subfloor and floor joists in the western section have been subjected to so many cycles of wetting and drying that "dry rot" has developed throughout the entire system which has reduced their allowable bending stresses to a point where they cannot carry their intended design loads
  - d. The roof system in the southwest portion of the western two story section has already collapsed.
  - e. The roof system in the remaining portions of the western two story section have deteriorated to a point where collapse is eminent.
  - f. The mansard parapet along the east side of the one story section has collapsed.
  - g. The concrete slab-on-grade first floor in the western two story section has deteriorated, most probably because it may not have been designed to resist the freeze-thaw cycles to which it is now exposed.
  - h. The exterior load bearing masonry walls have experienced some severe distress, most probably because of the freezing and expansive action of moisture penetrating the system.
  - i. The two second floor landings and exits at the northeast corner are either non-existent or so structurally unsound that they cannot be used.
3. That, based on these personal observations during the Inspection, Mr. Herrick has formed the following opinions:
  - a. The building on the Property is in "an obvious state of collapse and presents a dangerous situation for anyone who is working around it or in it." and
  - b. Because the extent of damage to the structure encompasses such a large percentage of the building, repair and restoration does not appear to be a viable solution.
4. That, based on these personal observations during the Inspection and based upon his review of Mr. Herrick's Inspection Report, it is CEO McAdoo's recommendation, pursuant to Section 68-3 of the Town Code, that, due to the extent of structural damage that is detailed in the Herrick report, demolition of the building appears to be the only option.

**WHEREAS**, this Town Board has fully considered the Report, the opinions and recommendation of CEO McAdoo contained in his Report and the Inspection Report prepared by Mr. Herrick.

**NOW, THEREFORE, BE IT RESOLVED**, that this Board concurs with CEO McAdoo's recommendation in his Report and the findings and opinions set forth in the Inspection Report prepared by Mr. Herrick and finds that the former garage building on the Property is dangerous to the health and safety of the public; and be it further

**RESOLVED**, that the former garage building on the Property is hereby ORDERED to be demolished and removed from the Property; and be it further

**RESOLVED**, that a hearing be scheduled before this Town Board on September 8, 2009 at 7:00 p.m. at the Geneva Town Hall, 3750 County Road 6, Town of Geneva, in relation to such dangerous and unsafe building; and be it further

**RESOLVED**, that a notice be served upon the persons and in the manner provided in Chapter 68 of the Code of the Town of Geneva – Unsafe Buildings.

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 July 14, 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: July 17, 2009

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

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**24) TOWN’S INSURANCE POLICY WITH C. S. BURRALL & SON, INC:** Discussed as Item # 4.

**25) THE APRIL 29<sup>TH</sup> INTERMUNICIPAL WATER AGREEMENT:** Motion to TABLE the April 29<sup>th</sup> Intermunicipal Water Agreement between the Towns of Geneva and Seneca made by Councilman Capozzi second by Supervisor Luckern.

**Discussion:** Supervisor Luckern stated, “When we did our repairs down at our water plant the Town of Seneca always shares part of that cost; their share of that is \$187,000.” Councilman Larsen said, “I believe we billed them last August, its been almost a year and they have held this contract over our heads for a year, sign this contract and we will pay you the money.” “The contract doesn’t have anything to do with the money they owe us, they owe us \$187,000 and I think we need to turn it over to the Attorneys.” Jeff Graff, Attorney for the Town stated, “They are not giving it voluntarily then you need to move to the involuntary way.”

Motion unanimously approved.

**26) INTERMUNICIPAL WATER AGREEMENT REVISED JULY 2009:** Motion to approve the revised July 2009 Intermunicipal Water Agreement between the Towns of Geneva and Seneca made by NONE second by NONE.

**Discussion:** None

Motion DIED.

**27) SUPERVISOR’S REPORT:** Motion to approve made by Councilman Smaldone second by Councilman Larsen.

**Discussion:** Supervisor Luckern stated that she has been opposed to the contract with Cassella from the start letting them have control of the landfill. The Town has been against the leachate from the start. The budget for the County is being worked on now.

**SETTLEMENT WITH NEW PLAN REALITY:** Motion to approve a settlement with New Plan Reality for an assessment lawsuit for \$8.8 million dollars for year 2004 through 2009. We would not have to refund any fire tax. Motion made by Councilman Smaldone second by Councilman Larsen.

Motion unanimously approved.

**28) CORRESPONDENCE:**

1. Lt. Gallagher's report

**29) OLD BUSINESS:** Councilman Larsen asked if the residents could use the 80 acres of the Spedding property. Supervisor Luckern said they could use it as long as they follow the Land Trust Agreement. A sign would be made labeling it the Kashong Conservation Area with the restrictions to be followed.

**30) NEW BUSINESS: NONE**

**31) PRIVILEGE OF THE FLOOR:** Pat Riley, Carter Road: "Is there a time limit on a site plan that has been approved?" CEO, Bill McAdoo, said, "He would look it up."

Melissa Nault, Rosewood Dr.: "Did Castle Brook have a final site plan approval?" CEO, Bill McAdoo replied, "No they have a Preliminary approval."

Mike Guyon stated that High Acres has to go back to the Planning Board. Councilman Rick Larsen stated, "I thought I read the PUD Law site plan approval is for only one year, after a year you have to go back and get site plan approval again?"

**32) ADJOURN:** Motion to adjourn made by Councilman Smaldone second by Councilman Capozzi. Motion unanimously approved. **8:45 P.M.**

RESPECTFULLY SUBMITTED