

Regular Geneva Town Board Meeting
3750 County Road #6
Geneva, NY 14456
June 8, 2010

Draft

PRESENT: Supervisor Mary E. Luckern Councilman Patrick Riley
 Councilman Anthony Capozzi Councilman George Smith
 Councilman Richard Larsen Attorney for the Town Jeff Graff

Recording Secretary: Lorrie S. Naegele, Geneva Town Clerk
The actions described below are not necessarily listed in order of occurrence.

Others present: Ryan Colvin, MRB Engineer; Charlie Bracko, Water & Sewer Superintendent; Ken Nardozi, Planning Board Member; Bill McAdoo, Code Enforcement Officer; Shelly Marquart, Deputy Town Clerk; Lorie Peck, Deputy Town Clerk; Mel Thomas, Zoning Board Member; four residents and no reporter for the Finger Lakes Times.

1) CALL TO ORDER: The meeting was called to order, at 7:03 p.m. by Supervisor Luckern. The meeting was opened with the Pledge of Allegiance.

2) ACCEPTANCE OF THE MINUTES: RESOLVED, that the minutes of the Regular Meeting May 11, 2010 be approved and accepted. Motion made by Councilman Capozzi, second by Councilman Larsen.

Discussion: None
Motion unanimously approved.

3) RECOGNIZE THE FOLLOWING TOWN RESIDENTS: Motion to recognize the following Town residents Jessica Bailey on her election to the Geneva Public School Board of Education. William Swingley, Director of Mental Health Services was recognized by the Ontario County Sheriff's Department, for his cooperation and help in dealing with situations even during holiday times. Mickey & Toni Coluzzi were recognized at the seniors of the year ceremony in Victor. Motion made by Councilman Riley, second by Councilman Smith.

Discussion: None
Motion unanimously approved.

4) TOWN CLERK'S MAY 2010 REPORT: (REFER TO ADDENDUM # 1)
Motion to accept and approve made by Councilman Capozzi, second by Councilman Larsen.

Discussion: None
Motion unanimously approved.

5) CODE ENFORCEMENT OFFICER'S MAY 2010 REPORT: (REFER TO ADDENDUM # 2) Motion to accept and approve made by Councilman Capozzi, second by Councilman Smith.
Discussion: CEO Bill McAdoo discussed that Wal-Mart is in the home stretch and on track to be completed in July. The parking lots are being completed and there will be a dramatic change in the exterior of the building in the next week. CEO Bill McAdoo recognized what a great job the Wal-Mart employees have done during this transformation.

Councilman Larsen stated that he had received a complaint about a vacant lot on Rosewood Drive from Mrs. Jane Dox about continued high grass issues that are attracting rats and mice on the vacant lot for the past three years. CEO Bill McAdoo stated that the owner lives in California and he has been working with the developer on keeping the property mowed. Councilman Larsen also stated he has received complaints on an abandon house on Snell Road. CEO explained that he was just informed that the bank now owns the property and they have a company that will maintain the property. Councilman Larsen stated that this would be a good time to look into the Town Code on this high grass issue. Supervisor Luckern stated that other Towns have codes and procedures to follow. The Town Attorney said, "Rather than taking them to court for violation, the Law would provide the Town to be able to give notice." "If the owner doesn't recognize the situation the Town can go in with their own forces or contract out to mow the yard, then charge back the owner on their taxes with a surcharge." The Board agrees that the Town needs to look into a law for High grass.

Councilman Riley stated that he received a complaint from residents on Rosewood Drive about the high grass along the fence that the Boys and Girls Club erected, it needs to be cut. Supervisor Luckern asked the CEO to call the Boys & Girls Club and ask them to take care of the grass by the fence and if nothing is done the Town will have to take some sort of action.

Councilman Riley also asked about the children trespassing on 260 Carter Road from the Conifer Development. Supervisor Luckern stated that Conifer has told the property owners to ask the children to stop crossing their property and if they don't to call the Sheriff.

Councilman Riley stated that he and the Supervisor received a phone call that the Sheriff's Department was called for a noise complaint around 4 a.m. at Woodlands at Northside. The Board has sent the manager of Woodlands at

Northside a copy of the Towns Code on Noise Ordinance. The Town Board received copies of their rules and regulations also. Supervisor Luckern stated that there would be more patrolling in that area.

Councilman Riley also asked how was the situation on pedestrian traffic was going. Supervisor Luckern stated that the Board asked her to write a letter to Conifer to help with the pedestrian traffic safety issue, which she did and had not, received a response. So she is now writing a second letter to Conifer and if she does not receive an answer in an appropriate amount of time she will call them directly.

Councilman Capozzi asked about 291 Rt 14 North, CEO Bill McAdoo stated he was called out their for the dumpster fire. The property is vacant and he has been told that they have a buyer for the property and the buyer was working on the house. Councilman Capozzi stated that now the tree has fallen onto the house and on a neighboring property. CEO McAdoo will inspect the situation. Motion unanimously approved.

5A) LOCAL LAW FOR LAWNS “HIGH GRASS”: Motion to direct the Town Attorney to draw up a Local Law to address the problem of high grass made by Councilman Smith, second by Councilman Capozzi.

Discussion:

Motion unanimously approved.

6) AUTHORIZE TO APPROVE BILLS: RESOLVED, that the bills are presented for payment on Abstract 05-2010 from voucher # 481 through # 575.

FUND	VOUCHER #	TOTALS
DA Highway	(507 and 520)	\$ 6,080.56
SS Sewer District	(521 to 525 & 575)	\$ 18,166.73
SWD Water Storage & District	(526 to 541)	\$ 7,887.74
A General Funds (542 to 574)-void voucher (555)MRB Group		\$ 14,410.49
TOTAL		\$ 46,545.52
TOTALS		
ABSTRACT: 5 –2010; MAY 2010 voucher # 507 - 575		\$ 46,545.52
PRE-PAID –May & June, voucher # 481 - 506		\$ 29,001.69
May – TOTAL		\$ 75,547.21

Motion to approve bills made by Councilman Capozzi, second by Councilman Larsen.

Discussion: Councilman Riley stated to void voucher #555 for MRB Per Supervisor Mary Luckern.

Motion unanimously approved.

7) METAL RECYCLING DUMPSTER/CONTAINER: (REFER TO ADDENDUM # 3)

Discussion: Water and Sewer Superintendent Charlie Bracko stated that the town currently does not have the room for another container. The Board stated that the Town residents could continue to dispose of any steel, metal, appliance items, etc. to Dox’s Garage on North Exchange Street.

8) RESOLUTION NO. 10-2010: Motion for the resolution-authorizing acceptance of easements made by Councilman Capozzi, second by Councilman Larsen.

**TOWN OF GENEVA
RESOLUTION NO. 10 - 2010
RESOLUTION AUTHORIZING ACCEPTANCE OF EASEMENTS**

WHEREAS, the Town of Geneva, by its officers or representatives, has engaged in discussions with The Woodlands at Northside, LLC, a New York Limited Liability Company, ("Owner") regarding the Town’s obtaining a water and utility easement and a sanitary sewer and utility easement over portions of the Owner’s property, as shown on a map attached to said easements, located in the Town of Geneva; and

WHEREAS, Town of Geneva officials have recommended to the Town Board that said Owner grant to the Town these easements over said lands of said Owner; and

WHEREAS, said easements have been offered by the Owner to the Town of Geneva; and

WHEREAS, the Town Board of the Town of Geneva is desirous of accepting said offered easements on behalf of said Town; and

WHEREAS, the Town Board of the Town of Geneva has examined said instruments and finds the consideration described therein to be fair and reasonable.

NOW, THEREFORE, BE IT RESOLVED that the Town Board of the Town of Geneva does hereby accept the Easements attached hereto as Exhibit 1 from Owner in accordance with the terms and conditions contained in said instruments and directs that the same be recorded in the Office of the Clerk of the County of Ontario, the fees for said recording to be borne by the Owner, and be it further

RESOLVED, that the Town Supervisor shall be and hereby is authorized to take any and all further action necessary to carry forth the intent of this resolution, including but not limited to the execution of all documents necessary to complete the conveyance of the interests referenced herein.

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 June 8th, 2010 by the following vote:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	X	_____
Richard Larsen	X	_____
Anthony Capozzi	X	_____
Patrick Riley	X	_____
George Smith	X	_____

Dated: June 8th, 2010

Lorrie S. Naegele, Town Clerk

9) AMEND CHAPTER 55 OF THE TOWN CODE: Motion to direct the Town Attorney to make changes the Board has suggested to draft a Local Law to amend Chapter 55 of the Code of the Town of Geneva and to add Article III, "Dog / Cat Breeding Facilities" made by Councilman Larsen, second by Councilman Capozzi.

Discussion: Councilman Larsen asked to make a change on **§55-20 A. #3** it states when the temperature of the facility rises above eighty-five (85) degrees Fahrenheit. He would like it changed to seventy-five (75) degrees Fahrenheit because he feels that 85 degrees was a little warm for a dog in a pen. Planning Board Member Ken Nardozi agreed and stated Planning Board Chairperson Melissa Nault and the people working on the draft they also had questions about that temperature. **§55-23 B** also needs to be looked at. The Town Attorney will note the change in his draft. Motion unanimously approved.

10) LEAD AGENCY FOR COUNTY ROAD #4 WATER CONNECTION: (REFER TO ADDENDUM # 4) Motion to approve the Geneva Town Board state their intent to be Lead Agency for the County Road No. 4 Water Connection made by Councilman Riley, second by Councilman Capozzi.

Discussion: Ryan Colvin, MRB Engineer; explained that the board has to wait 30 days to do the SEQR so any involved agency has a chance to declare their intent to be lead agency. Motion unanimously approved.

11) RESOLUTION NO. 11 - 2010: Motion to authorize the Supervisor as the official representative of the Town to execute and submit the application for loan and grant assistance to the USDA made by Councilman Larsen, second by Councilman Capozzi.

**TOWN OF GENEVA, NEW YORK
RESOLUTION OF THE TOWN BOARD
RESOLUTION NO: 11 -2010**

TO BE ADOPTED BY THE TOWN BOARD AT THE June 8, 2010 MEETING

RESOLUTION DULY ADOPTED BY THE TOWN BOARD OF THE TOWN OF GENEVA, ONTARIO COUNTY, NEW YORK AT A MEETING OF SAID BOARD ON THE 8th DAY OF JUNE, 2010.

"RESOLVED, that the Supervisor of the Town of Geneva, Ontario County, New York, is hereby authorized as the official representative of the Town to execute and submit the application for loan and grant assistance to the USDA Rural

Development for improvements to the Town of Geneva Water District No. 12 and is hereby directed and authorized to act in connection with the submission of the application and to provide such additional information as may be required.

STATE OF NEW YORK):
COUNTY OF ONTARIO): ss:
TOWN OF GENEVA):

I, Lorrie Naegele, Town Clerk of the Town of Geneva, County of Ontario and State of New York, DO HEREBY CERTIFY that I have compared the foregoing resolution duly adopted by the Town Board of the Town of Geneva on the 8th day of June, 2010 with the original now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.

Dated: JUNE 8, 2010

Lorrie S. Naegele, Clerk

12) ACCEPT PROPOSED LOCAL LAW NO. 2 - 2010: RESOLUTION NO. 12-2010 Motion to accept a proposed Local Law No. 2 - 2010, "Amending Chapter 165 (Zoning) of the Code of the Town of Geneva relative to the Town Zoning Board of Appeals and Town Planning Board made by Councilman Riley, second by Councilman Larsen.

Discussion: Supervisor Luckern had a question on page three (3)-D, No Zoning Board of Appeals member shall be absent from more than three consecutive meetings of the Zoning Board of Appeals or from a total of one quarter of the meetings of the Zoning Board of Appeals in any twelve (12) month period. She would feel more comfortable if it said shall be absent one quarter of the meetings. The Town Attorney stated the purpose of having that is to nip in the bud a repeat offender early on. The Board doesn't have to act on it you take it case by case.

**TOWN OF GENEVA, NEW YORK
RESOLUTION NO. 12 -2010 OF THE TOWN BOARD**

RESOLUTION AUTHORIZING SCHEDULING OF PUBLIC HEARING FOR PROPOSED LOCAL LAW 2 – 2010 ENTITLED "AMENDING CHAPTER 165 (ZONING) OF THE CODE OF THE TOWN OF GENEVA RELATIVE TO THE TOWN ZONING BOARD OF APPEALS AND TOWN PLANNING BOARD"

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 entitled "Amending Chapter 165 (Zoning) of the Code of the Town of Geneva Relative to the Town Zoning Board of Appeals and Town Planning Board"; 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; and

WHEREAS, this action by the Town Board is a "Type II" action under the regulations promulgated by authority contained in the State Environmental Quality Review Act (SEQRA), which appear in 6 NYCRR Part 617.5, thereby requiring no further action by the Town Board, in that Part 617.5 (c) states that actions that are not subject to review under SEQRA include, "(27) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list" and subsection (20) on this list includes "routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment". This action involves continuing agency administration and management in that it establishes regulations pertaining to the membership make-up and requirements of the Board of Appeals and Planning Board and corrects an oversight in the original adoption of the Chapter 165 by adding a specific provision establishing the Planning Board.

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk be, and she hereby is, directed to schedule a public hearing on this proposed local law to be held on July 13, 2010, at 7:00 pm. 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 newspaper 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.

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 June 8, 2010 by the following vote:

	<u>Aye</u>	<u>Nay</u>
Mary Luckern	<u>X</u>	<u> </u>
Richard Larsen	<u>X</u>	<u> </u>
Anthony Capozzi	<u> </u>	<u>X</u>
Patrick Riley	<u>X</u>	<u> </u>
George Smith	<u>X</u>	<u> </u>

Dated: June 8th, 2010

Lorrie S. Naegele, Town Clerk

13) RIGHT TO FARM LAW: (REFER TO ADDENDUM # 4A) Motion to **TABLE**. Motion made by Councilman Capozzi, second by Councilman Larsen.

Discussion: Supervisor Luckern stated she has spoken with various Board members and there are some concerns about the Law. She has also spoken to Jeff Graff the Town Attorney, Kris Hughes Director of Planning, Ontario County Department of Planning. There is still a lot of material yet to go through. Hugh Price asked, "I would like to know what the questions are that the Board has because that is the roll of the Ag Enhancement Committee to respond to the concerns of the Board." The Supervisor stated that the Board would set a date for a workshop to discuss all of the concerns. When the Town Board accepts the draft Law it then has to go to the County and Town Planning Boards. Councilman Larsen stated he had a lot of questions on animal waste, distribution and lagoons. Town Attorney said, "If we have this law before we have any regulations in the Zoning Code it does become an issue." "If you make regulations in your Zoning Code pertaining to different Agricultural activities like facilities, Ag & Markets have standards that are reasonable". Councilman Larsen said, "The farmers that are here today I would give them anything they want." "It's the ones coming in the future the factory farmers that I am worried about." "For example: Marks Farms in Lowville NY spilled over 3 million gallons of liquid manure in the Black River in August of 2005 and kills 350,000 fish. The DEC, which regulates the storage of manure, didn't even know these manure lagoons existed!" Councilman Riley said, "Ag & Markets Law 308 dose not make perspective judgment on agricultural practices it also dose not define sound agricultural practices." "So the Law we are basing our Law on does not define anything for us." Councilman Larsen asked, "How can we pass a Right To Farm Law before we have any codes?" Further discussion followed.
Motion unanimously approved.

13A) RIGHT TO FARM LAW WORKSHOP: Motion to set a workshop on Tuesday, June 29, 2010 at 6:00 p.m. to discuss the Right To Farm Law made by Councilman Riley, second by Councilman Capozzi.

Discussion: None
Motion unanimously approved.

14) MOWING CONTRACT: (REFER TO ADDENDUM # 5) Motion to approve a mowing contract between the Town of Geneva and Ontario County. Motion made by Councilman Capozzi, second by Councilman Larsen.

Discussion: None
Motion unanimously approved.

15) BIDS FOR THE DEMOLITION OF FINK'S GARAGE: Motion to approve advertising for bids to demolish Fink's Garage made by Councilman Larsen, second by Councilman Capozzi.

Discussion: Councilman Riley asked the Supervisor if she had received anything in writing from the County on the reimbursement of the demolition. Supervisor Luckern stated that at 1:30 p.m. Thursday the CEO, Town Attorney and the County Attorney Gary Curtiss would meet.
Motion unanimously approved.

16) SUPERVISOR'S REPORT: Motion to accept the Supervisor's report made by Councilman Larsen, second by Councilman Smith.

Discussion: • Rifle Law passed, due to the weighted vote. • Demolition of the old Geneva High School passed unanimously. •Ontario County 2010 Census response rate is 82%. •Town of Geneva Waste Water Treatment Plant; the engineers, Councilmen Larsen, Water & Sewer Superintendent and Charles Schumers office are working very hard on this. • Environmental Quality Committee in the County has asked the State Senate and the House of Representatives to Amend Appropriate Federal Laws to Protect the Environment and the Public from any risks associated with hydrofracking. Prohibiting hydrofracking on property owned by Ontario County until such time as potential impacts are identified and addressed. Asking the Governor and the Legislature to Ban Hydrofracking, and requesting the Governor to pursue further independent scientific assessments to determine the risks associated with hydrofracking.

Motion unanimously approved.

16A) ADDENDUM:

SELF CONTAINED COMPACTOR: Motion to accept a bid of \$23,853.00 from United Services Gp Inc. for a New Rudco RP3000 Self Contained Compactor with ozone odor control made by Councilman Capozzi, second by Councilman Larsen.

Discussion: None

Motion unanimously approved.

17) CORRESPONDENCE:

1. Lt. Gallagher's report

18) OLD BUSINESS:

Discussion: Councilman Larsen said, "Sewer rates this year have gone up \$.50 @ 1000 for the City sewer rate, I don't know how the Town is going to be able to keep taking raises like that." Larsen said, " We are being forced into building our own Waste Water Treatment Plant." Supervisor Luckern stated that she was asked about the water connect on County Road 4. The Supervisor said, "the Town buys the water from the City and we received a bill in January and we saw there was an increase of 11.5% and no one notified the Town that there was going to be an increase."

Councilman Larsen went out to the Kashong Conservation Area and there still was no sign and the Board had spoken to Mr. Perry two months ago to have the sign put in place. Councilman Capozzi stated that Mr. Perry had spoken to Dave Achilles on the matter. Supervisor Luckern stated that we are paying \$100.00 a month for a portable toilet and no one knows where the conservation area is due to not having a sign. The Board will contact David Achilles Highway Superintendent about the brush and the parking.

18A) PA SYSTEM NEW MIXER: Motion to approve to buy a new mixer for the PA system for \$249.00 made by Supervisor Luckern, second by Councilman Smith.

Discussion: None

Motion unanimously approved.

19) NEW BUSINESS: None

Discussion:

Motion unanimously approved.

20) PRIVILEGE OF THE FLOOR: None

21) EXECUTIVE SESSION: Motion to go into Executive Session to discuss pending litigation and bargaining negotiations made by Supervisor Luckern, second by Councilman Larsen. Time was: 8:21 p.m.

Discussion: None

Motion unanimously approved.

• The following information was supplied by Supervisor Luckern and transcribed by Lorrie S. Naegele Town Clerk.

22) LEAVE EXECUTIVE SESSION: Motion to leave Executive session made by Councilman Larsen, second by Councilman Smith. Time 9:00p.m.

23) CALL TO ORDER REGULAR MEETING: The meeting was called to order, at 9:01 p.m. by Supervisor Luckern.

24) MOTEL 6 OPERATING L. P.: Motion to approve a proposed settlement of the 2006-2009 assessment of Motel 6 Operating L.P. made by Councilman Riley, second by Councilman Capozzi.

Discussion: None

Motion unanimously approved

25) ADJOURN: Motion to adjourn made by Councilman Larsen second by Councilman Riley.

9:03 - P.M.

RESPECTFULLY SUBMITTED
