

Regular Geneva Town Board Meeting

3750 County Road #6

Geneva, NY 14456

May 11, 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: David Achilles, Highway Superintendent; Ryan Colvin, MRB Engineer; Charlie Bracko, Water & Sewer Superintendent; Melissa Nault, Planning Board Chair; Bill McAdoo, Code Enforcement Officer; Shelly Marquart, Deputy Town Clerk; Ten residents and no reporter for the Finger Lakes Times.

1) CALL TO ORDER: The meeting was called to order, at 7:00 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 Public Hearing April 13, 2010 on Modified Water District #12, the Public Hearing April 13, 2010 on Proposed Sewer Rates, the Regular Meeting April 20, 2010 and the Special Meeting April 20, 2010 be approved and accepted. Motion made by Councilman Riley, second by Councilman Larsen.

Discussion: None

Motion unanimously approved.

3) RECOGNIZE THE FOLLOWING PEOPLE: Motion to recognize Carl Fribolin on his receiving the Ralph Springstead Award from Geneva Rotary.

Doctor Brown, a resident of the town, for developing a new variety of apple.

David Achilles (Highway Superintendent), Charlie Bracko (Sewer & Water Superintendent) and all the Town workers for all the work they did over the past few weeks on the Town Hall lawn. Motion made by Councilman Larsen, second by Councilman Smith.

Discussion: None

Motion unanimously approved.

4) TOWN CLERK'S MARCH 2010 REPORT: (REFER TO ADDENDUM # 1)

Motion to accept and approve made by Councilman Capozzi, second by Supervisor Luckern.

Discussion: None

Motion unanimously approved.

5) CODE ENFORCEMENT OFFICER'S MARCH 2010 REPORT: (REFER TO ADDENDUM # 2) Motion to accept and approve made by Councilman Capozzi, second by Councilman Riley.

CEO Bill McAdoo discussed that Wal-Mart is in the home stretch and on track to be completed in July.

Discussion: Councilman Larsen asked for a progress update on where the Town is on the issue with West Lake Road junk cars because the thirty day deadline is up. Bill stated that he had sent out notices and talked to the property owners and now the Town Attorney and Bill are preparing the appropriate documents to prepare for court action.

Councilman Riley asked about the storage trailers on Lyons Road and how that was going. CEO Bill McAdoo replied that they have until May 17, 2010 for their thirty-day deadline and all of the property owners had called Bill and are working with him to fix the problems.

Supervisor Luckern asked Ryan Colvin, MRB Engineer, to comment on Finks Garage. Ryan explained they have prepared draft specs for the demolition bids that will be reviewed tomorrow with CEO Bill McAdoo and then with DEC and Ontario County. The Town will then advertise for the bids. Ryan also stated that the Environmental & Structural Engineers have inspected the site to make sure that it will not affect the neighbors when it is demolished.

Councilman Riley stated that, at the last meeting, Councilman Larsen asked about the verification of the expenses for Finks Garage from the County. Supervisor Luckern stated that she would look into that and have the County put it in writing. Attorney Gary Curtis is whom the Supervisor had spoken with earlier. Motion unanimously approved.

6) AUTHORIZE TO APPROVE BILLS: RESOLVED, that the bills are presented for payment on Abstract 05-2010 from voucher # 384 through # 480.

FUND	VOUCHER #	TOTALS
A	General Fund (336 to 383)	\$ 33,278.96
DA	Highway (281 to 304)	\$ 5,893.23
SS	Sewer District (305 to 318)	\$ 7,337.60
SWD	Water Storage & District (319 to 335)	\$ 5,816.00
TOTAL		\$ 52,325.79
TOTALS		
ABSTRACT: 5 –2010; APRIL 2010 voucher # 418 to 480		\$ 52,325.79
PRE-PAID –April & May, voucher # 384 to 417		\$ 61,955.08
April – TOTAL		\$ 114,280.87

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

Discussion: None

Motion unanimously approved.

7) AG ENHANCEMENT COMMITTEE REPORT: Hugh Price, Chairman of the Ag Enhancement Committee discussed that the Ag Enhancement Committee had reviewed the Draft Town of Geneva Agricultural & Farmland Protection Plan and approved it at their last meeting May 6, 2010. This was the third Draft and each time it has gotten more complete and the committee is in agreement that this is a workable plan. A Draft Right To Farm Law was presented to the Town Board. Attending Committee Members were Wayne Hansen, Robert Ansley, Marilyn McDonald and Joe Nicholson.

7A) RIGHT TO FARM LAW: Motion for the Town Attorney to write a draft for the Right to Farm Law to be discussed at the next meeting made by Councilman Capozzi, second by Councilman Riley.

Discussion: The Town Board agreed that the Town needs the Right to Farm Law and the Board thanked the Ag Enhancement committee for all the work that they have done.

Motion unanimously approved.

8) KASHONG CONSERVATION AREA: Presentation by John Engell on invasive Plants at the Kashong Conservation Area. John asked about having a dumpster at the transfer station for metal. Supervisor Luckern asked Charlie Bracko to look into it. Supervisor Luckern also stated that the Town residents could take their metal to Dox’s Garage, owner Myron Dox allows this as a courtesy to the residents.

9) TOWN OF GENEVA CODE NUMBER 118-6: Motion to make no zoning changes to the Town of Geneva Code 118-6 Connection Required under Article II Use of Public Sewers required made by Councilman Larsen, second by Councilman Capozzi.

Discussion: None

Motion unanimously approved.

10) PROPOSED LOCAL LAW -2010: Motion to have the Town Attorney amend the draft proposed Local Law to “Amending Chapter 165 (Zoning) of the Code of the Town of Geneva Relative to the Zoning Board of Appeals and the Town Planning Board” made by Councilman Larsen, second by Councilman Smith.

Discussion: Councilman Larsen stated: “looking at the Planning Board attendance in 2008, there were 14 absentee in 11 meetings. In 2009, there were 18 absentees in 11 meetings, and in 2010 there were 9 absentees in 4 meetings and one meeting this year had no quorum.” The draft law was discussed further. The Board agreed that they need a law of procedure to follow. Councilman Capozzi is against the alternate process. Supervisor Luckern stated that with the attendance problem on the Planning Board, especially when a town resident has come before the Planning Board and there is no quorum, there would be no action taken which is a serious problem. Supervisor Luckern also stated that this is happening all over not just in Geneva. Councilman Riley stated that the system is set up to serve the people of Geneva and our system is broken and, to fix the system, having alternates is a way and most of the country uses this approach. “There is no reason why a resident in the Town of Geneva should be put on hold because our Planning Board can’t establish a quorum.” Councilman Larsen stated that this law states that if the attendance policy doesn’t work then the Town Board can place an alternate on the Planning Board. Howard Meaker, Liaison to the Ontario County Planning Board, stated that a supermajority vote is needed to change the County Planning Board recommendation; (a supermajority vote consists of 5 of 7 on the Planning Board and 4 of 5 on the Zoning Board). Supervisor Luckern is not happy about alternates but due to the Planning Board being unable to conduct business is a problem that needs to be addressed.

I, Lorrie S. Naegele, Town Clerk of the Town of Geneva do hereby certify that the Town Board of the Town of Geneva adopted the aforementioned resolution on May 11, 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: May 11, 2010

Lorrie S. Naegele, Town Clerk

11) PROPOSED LOCAL LAW 1 -2010: Motion to accept Local Law 1 -2010 “Amending Chapter 165 (Zoning) of the Code of the Town of Geneva relative to the Lake View District Special Use Permit Regulations and the Condominium Special Use Permit Regulations” made by Councilman Capozzi, second by Councilman Larsen.

Discussion: None

Motion unanimously approved.

11A) RESOLUTION NO. 07- 2010:

**TOWN OF GENEVA, NEW YORK
RESOLUTION NO. 07- 2010 OF THE TOWN BOARD**

RESOLUTION AUTHORIZING SCHEDULING OF PUBLIC HEARING FOR PROPOSED LOCAL LAW 1-2010 ENTITLED “AMENDING CHAPTER 165 (ZONING) OF THE CODE OF THE TOWN OF GENEVA RELATIVE TO THE LAKE VIEW DISTRICT SPECIAL USE PERMIT REGULATIONS AND THE CONDOMINIUM SPECIAL USE PERMIT 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 entitled “Amending Chapter 165 (Zoning) of the Code of the Town of Geneva Relative to the Lake View District Special Use Permit Regulations and the Condominium Special Use Permit 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; 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 will only change the Board that can review and issue special use permits involving the Lake View District.

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 June 8, 2010, 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 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.

NOW THEREFORE BE IT RESOLVED, Councilman Capozzi moved that the following resolution be adopted such motion was seconded by Councilman Larsen the Supervisor called the roll of the Town Board, which was done by the following results:

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

Dated: May 11, 2010

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. **1** of the year **2010**.

A local law **"Amending Chapter 165 (Zoning) of the Code of the Town of Geneva Relative to the Lake View District Special Use Permit Regulations and the Condominium Special Use Permit Regulations"**

(Insert Title)

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

Town of Geneva as follows:

Section 1. Declaration of Intent.

Section 165-28.1 of the Town of Geneva Zoning Law established a special use permit review process for properties within the Lake View District. Section 165-28.2 of the Town of Geneva Zoning Law established a special use permit review process for residential condominiums. These sections established the Town Planning Board as the body with the power to review and issue special use permits pursuant to these Sections. Section 165-72, on the other hand, gives the Town Zoning Board of Appeals the power to otherwise issue special use permits. This local law is intended to modify Sections 165-28.1 and 165-28.2 to keep the power to issue special use permits in only one Board, the Town Zoning Board of Appeals.

Section 2. Paragraph B. of Section 165-28.1 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby repealed and a new Paragraph B. is inserted in its place to read as follows:

B. Establishment of a special use permit for limited tourist-related business. A special use permit for limited tourist-related business, herein referred to as the “permitted business,” is hereby established upon the terms and conditions hereinafter set forth. The Zoning Board of Appeals shall issue the special use permit and shall insure compliance with the following terms and conditions. In the event there is a request for variance of the terms and conditions relating to distance setbacks or other criteria normally addressed in an area variance, the applicant shall make a separate application to the Zoning Board of Appeals for the granting or denial of such a request.

Section 3. Subparagraph (a) of subsection (7) of paragraph B. of section 165-28.1 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby amended by deleting the phrase “Planning Board” and replacing it with “Zoning Board of Appeals”.

Section 4. Subparagraph (a) of subsection (8) of paragraph B. of section 165-28.1 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby amended by deleting the phrase “Planning Board” and replacing it with “Zoning Board of Appeals”.

Section 5. Subsection [3] of subparagraph (a) of subsection (8) of paragraph B. of section 165-28.1 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby amended by deleting the phrase “Planning Board” and replacing it with “Zoning Board of Appeals”.

Section 6. Subparagraph (e) of subsection (9) of paragraph B. of section 165-28.1 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby amended by deleting the phrase “Planning Board” and replacing it with “Zoning Board of Appeals”.

Section 7. Subsection (10) of paragraph B. of section 165-28.1 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby amended by deleting the phrase “Planning Board” and replacing it with “Zoning Board of Appeals”.

Section 8. Subparagraph (b) of subsection (6) of Paragraph B. of Section 165-28.2 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby repealed and a new Paragraph (b). is inserted in its place to read as follows:

- (b) The Zoning Board of Appeals shall issue the special use permit and shall insure compliance with the following terms and conditions. In the event there is a request for variance of the terms and conditions relating to distance setbacks or other criteria normally addressed in an area variance, the applicant shall make a separate application to the Zoning Board of Appeals for the granting or denial of such a request.

Section 9. Subparagraph (g) of subsection (7) of paragraph B. of section 165-28.2 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby amended by deleting the phrase “Planning Board” and replacing it with “Zoning Board of Appeals”.

Section 10. Subsection (15) of paragraph B. of section 165-28.2 of the Town of Geneva Zoning Law, as contained in the Code of the Town of Geneva, is hereby amended by deleting the phrase “Planning Board” and replacing it with “Zoning Board of Appeals”.

Section 11. 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 12. This local law shall take effect immediately upon filing with the Secretary of State.

12) RESOLUTION NO. 8-2010:

**TOWN OF GENEVA
RESOLUTION NO. 8-2010
SEQR - LEAD AGENCY RESOLUTION
MODIFIED WATER DISTRICT NO. 12**

At a meeting of the Geneva Town Board held on May 11, 2010, Councilman Capozzi moved adoption of the following resolution; Councilman Larsen seconded the motion and was passed.

“RESOLVED, that in accordance with the New York State Environmental Quality Review (SEQR) regulations, the Town Board of the Town of Geneva hereby announces its intent to serve as Lead Agency to conduct an environmental review of public water supply improvements to serve the Town of Geneva Modified Water District No. 12. The project involves installation of watermain along Pre-Emption Road, Hastings Road, Braewood Lane and Healey Road, and a watermain connection between Pre-Emption Road and NYS Route 14A. A total of 17,650 linear feet of watermain will be installed. In accord with the likelihood that the Town Board will serve as Lead Agent, the Board has prepared an Environmental Assessment of the significance of and potential environmental impact of the proposed project.

FURTHER RESOLVED, that the Town Board has determined that, as a segment of the project is located in a Ontario County Agricultural District, the proposed action is a Type I action as defined under SEQR; and, be it

FURTHER RESOLVED, that the Town Board hereby accepts the Environmental Assessment of this project, prepared by Stuart I. Brown Associates, Inc., and be it

FURTHER RESOLVED, that the Town Board will notify the Involved Agencies of its intention to act as Lead Agency for this project and will provide them with a copy of the full Environmental Assessment Form for their review and comment. The Town Board will take any such comments into account prior to making a Determination of Significance for the project. However, based upon the Environmental Assessment which has been prepared, the Town Board finds that the project will not likely result in significant impacts upon the environment and does not anticipate the preparation of an Environmental Impact Statement.

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

I, Lorie S. Naegele, Town Clerk of the Town of Geneva, Ontario County, 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 11th day of May, 2010 with the original thereof now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.

DATED: May 11, 2010

Lorrie S. Naegele, Town Clerk

13) RESOLUTION NO. 9-2010:OPPOSITION OF ASSEMBLY BILL NO. A9911:

TOWN OF GENEVA, NEW YORK
RESOLUTION OF THE TOWN BOARD
RESOLUTION NO: 09 -2010
RESOLUTION IN OPPOSITION OF ASSEMBLY BILL NO. A.9911
AMENDING THE PUBLIC OFFICERS LAW

WHEREAS, The New York State Assembly has introduced Assembly Bill No. A.9911 requiring certain Agency records available to the public pursuant to article six, as well as any proposed resolution, law, rule, regulation, policy or any amendment thereto, that are scheduled to be the subject of discussion by a public body during an open meeting shall be made available, to the extent practicable, prior to or at the meeting during which such records will be discussed; and

WHEREAS, Assembly Bill No. A.9911 would require such records shall be posted on the website of the agency with which the public body is affiliated, as soon as practicable, but not less than twenty-four hours prior to a meeting during which they will be discussed, and a reasonable number of copies of such records shall be made available, to the extent practicable, at or prior to the meeting; and

WHEREAS, Said legislation would be a significant burden on staff and resources at the local government level, let alone could cost counties more money to make additional copies and require counties to expand technology to accommodate such requirement; and

WHEREAS, Said legislation would require all agency boards to make their records available to the public, in which Ontario County has approximately thirty (30) outside standing committees, boards, and agencies that this may affect, along with the ten standing committees; and

WHEREAS, Ontario County also consists of municipalities that do not have internet capability, therefore causing them to make paper copies available and causing additional expenses for that municipality; now, therefore, be it

RESOLVED, That the Town of Geneva Town Board hereby opposes Assembly Bill A.9911 and urges the New York State Senate to also oppose such a bill; and further

RESOLVED, That a certified copy of this resolution be sent by the Clerk of this Board to Assemblymen Kolb and Errigo, Senators Nozzolio and Volker, the New York State Association of Counties, Inter-County Association of Western New York, and any others deemed necessary.

NOW THEREFORE BE IT RESOLVED, Councilman Larsen moved that the following resolution be adopted such motion was seconded by Councilman Riley the Supervisor called the roll of the Town Board, which was done by the following results:

	<u>Aye</u>	<u>Nay</u>
Supervisor Mary E. Luckern	<u>X</u>	<u> </u>
Councilman Anthony Capozzi	<u>X</u>	<u> </u>
Councilman Richard Larsen	<u>X</u>	<u> </u>
Councilman Pat Riley	<u>X</u>	<u> </u>
Councilman George Smith	<u>X</u>	<u> </u>

Dated: May 11, 2010

Lorrie S. Naegele, Town Clerk

14) TRASH COMPACTOR: Motion to authorize Water & Sewer Superintendent Charlie Bracko to advertise for Bids for a 2010 or newer 30 yard self-contained Trash Compactor for the Town of Geneva’s Transfer Station. Motion made by Councilman Capozzi, second by Councilman Smith.

Discussion: Councilman Larsen asked what the third compactor would be used for, Charlie explained it would be used for the cardboard.

Motion unanimously approved.

15) SUPERVISOR’S REPORT: Motion to accept the Supervisor’s report made by Councilman Capozzi, second by Councilman Larsen.

Discussion: At the next Supervisors Meeting, the law for the use rifles for hunting south of 5 & 20 will be discussed and the Supervisor is leaning towards voting no. Child Passenger Protection Act “Leandra’s Law” will be discussed at the next meeting, along with the location of FLCC in Geneva.

Motion unanimously approved.

16) CORRESPONDENCE:

1. Lt. Gallagher's report
2. DOT letter from David C. Goehring on Carter Road
3. Report from the Town of Geneva regarding Zotos' windmill
4. Letter from Planning Board
5. Letter from Assemblyman Kolb regarding Route 14

17) OLD BUSINESS: Councilman Riley stated that in February they discussed sidewalks on Carter Road, with Conifer Group being involved. Riley also asked about the timelines and the Kennel Law, Planning Bard Chair Melissa Nault stated that they would be before the Town Board at the June meeting.

17A) LETTER TO CONIFER GROUP CONCERNING SAFETY ON CARTER ROAD: Motion to send a letter to Conifer Group concerning the safety of people walking down Carter Road made by Supervisor Luckern, second by Councilman Capozzi.
Motion unanimously approved.

18) NEW BUSINESS: None

19) PRIVILEGE OF THE FLOOR: None

20) ADJOURN: Motion to adjourn made by Supervisor Luckern, second by Councilman Larsen.
Discussion: None
Motion unanimously approved.

8:25- P.M.
RESPECTFULLY SUBMITTED
