

Regular Geneva Town Board Meeting
 3750 County Road #6
 Geneva, NY 14456
October 12, 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: Pat Nicoletta, MRB Engineer; Charlie Bracko, Water & Sewer Superintendent; Melissa Nault, Planning Board Chair; Ken Nardozi, Planning Board Member; Bill McAdoo, Code Enforcement Officer; Shelly Marquart, Deputy Town Clerk; twelve residents and no reporter for the Finger Lakes Times.

1) CALL TO ORDER: The meeting was called to order at 8:05 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 Special Meeting on September 10, 2010, the Public Hearing and Regular Board Meeting September 21, 2010 and the Special Meeting September 30, 2010, be approved and accepted. Motion made by Councilman Smith, second by Councilman Capozzi.

Discussion: None
 Motion unanimously approved.

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

Discussion: None
 Motion unanimously approved.

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

Discussion: The 2010 New York State Building Codes will go into effect December 28, 2010. Red Jacket Orchards are cleaning up their property. The storm water issue on Carter Road is on the City side of the road and the City Engineer stated that it would be taken care of. Lomar Drive, Lenox Road and Pre-Emption Road storm water issues are still being looked into. Councilman Capozzi asked about a property on State Route 14N, CEO Bill McAdoo stated that the owner has purchased a demolition permit and will be tearing the building down. Councilman Larsen asked that the CEO supply copies of all the projects that go to the County Planning Board. CEO Bill McAdoo agreed.

MRB Engineer Pat Nicoletta brought the Board up to date on the Finks Project the Board agreed to leave the concrete wall on the property and fill and seed the property. DEC will still be monitoring the property.
 Motion unanimously approved.

5) AUTHORIZE TO APPROVE BILLS: RESOLVED, that the bills are presented for payment on Abstract 10-2010 from voucher # 904 through # 1005.

FUND	VOUCHER #	TOTALS
DA Highway	(926 to 935)	\$ 2,203.28
SS Sewer District	(936 to 944,966,967,968,992)	\$ 7,806.35
SWD Water Storage & District	(945 to 962,964,969,993,995)	\$ 24,830.01
A General Funds	(970 to 991,998,999,1000 to 1005)	\$ 16,198.32
MODIFY WD DIST 12	(963,965,994)	\$ 6,805.26
FINKS GAS STATION	(996 and 997)	\$ 69,727.50
TOTAL		\$ 122,594.60
ABSTRACT: 10 -2010; OCTOBER 2010 voucher # 926 - 1005		\$ 122,594.60
PRE-PAID -September& October, voucher # 904 - 925		\$ 104,903.04
October - TOTAL		\$ 227,497.64

Motion to approve bills made by Councilman Larsen, second by Councilman Smith.
Discussion: None

Motion unanimously approved.

6) PROPOSED LOCAL LAW NO. 7 - 2010 Motion to accept and send to the Town of Geneva Planning Board a proposed local Law No. 7- 2010 "Adopting Regulations Regarding the licensing of Dogs" and **Resolution No. 34-2010** to set a Public Hearing for November 9, 2010 at 7:00 pm. Motion made by Councilman Capozzi, second by Councilman Smith.

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

RESOLUTION NO. 34 - 2010

RESOLUTION AUTHORIZING SCHEDULING OF PUBLIC HEARING FOR PROPOSED LOCAL LAW ENTITLED "A LOCAL LAW "ADOPTING REGULATIONS REGARDING THE LICENSING OF DOGS "

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 "A Local Law Adopting Regulations Regarding the Licensing of Dogs"; 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,

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 pertains to the adoption of regulations regarding the licensing of dogs, an activity the Town of Geneva has conducted in the past and will continue to conduct.

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk be, and she hereby is, directed to schedule a public hearing to be held on November 9, 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.

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 October 12, 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: October 12, 2010

Lorrie S. Naegele, Town Clerk

7) RESOLUTION NO. 33- 2010, ACCEPTING LOCAL LAW 3- 2010: Motion to accept Local Law 3-2010 amending the Code of the Town of Geneva by adopting Regulations Regarding Dog and Cat Breeding Facilities and amending the Penalty Provisions Affecting the Code made by Councilman Larsen, second by Councilman Capozzi.

Discussion: None

**TOWN OF GENEVA, NEW YORK
RESOLUTION NO. 33 - 2010**

**RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF GENEVA OF LOCAL LAW
NO. 3 OF 2010 WHICH AMENDS THE CODE OF THE TOWN OF GENEVA BY ADOPTING REGULATIONS
REGARDING DOG AND CAT BREEDING FACILITIES AND AMENDING THE PENALTY PROVISIONS AFFECTING
THE CODE**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Geneva for a public hearing to be held by said Town Board on August 10, 2010, 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 the Code of the Town of Geneva by Adopting Regulations Regarding Dog and Cat Breeding Facilities and Amending the Penalty Provisions Affecting the Code; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town of Geneva, on September 9, 2010 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 September 21, 2010, at 7:00 p.m. at the Geneva Town Hall, 3750 County Road 6, Geneva, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

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

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

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Geneva hereby adopts said Local Law No. 3 of 2010, entitled, "A Local Law Amending the Code of the Town of Geneva by Adopting Regulations Regarding Dog and Cat Breeding Facilities and Amending the Penalty Provisions Affecting the Code", 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 October 12, 2010 by the following vote:

	<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: October 12, 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.

County

Town of Geneva

Local Law No. 3 of the year 2010.

A local law **"Amending the Code of the Town of Geneva by Adopting Regulations Regarding Dog and Cat Breeding Facilities and Amending the Penalty Provisions Affecting the Code"**
(Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)
Town of Geneva as follows:

Section 1. Chapter 55 (Animals) of the Code of the Town of Geneva is hereby amended with the adoption of a new Article III to read as follows:

ARTICLE III
Dog and Cat Breeding Facilities

§ 55-20. Title.

This article shall be known and may be cited as the "Dog and Cat Breeding Facilities Law of the Town of Geneva."

§ 55-21. Legislative intent.

It is the intent of this article to set forth regulations regarding the establishment, maintenance and operation of kennels, commercial breeding facilities and non-commercial breeding facilities, to protect and preserve the health, safety and welfare of the dogs and cats in these breeding facilities as well as of the public who will work in, patronize, visit, conduct business with or otherwise come in contact with commercial or non-commercial breeding facilities, and further to enable the Town to maintain an ongoing record of commercial and noncommercial breeding facilities.

§ 55-22. Definition of terms.

A. As used in this article, the following words or phrases shall have the following respective meanings:

BREEDING FACILITY, COMMERCIAL -- Any building or lot in the Town of Geneva wherein a person or persons keep eight or more dogs and/or eight or more cats over twelve months of age, breeds three or more litters of dogs or three or more litters of cats in a calendar year or sells or transfers any dog or cat to a dog or cat dealer or pet shop.

BREEDING FACILITY, NON-COMMERCIAL -- Any building or lot in the Town of Geneva wherein a person or persons keep fewer than eight dogs and/or fewer than eight cats over twelve months of age, breeds two or fewer litters of dogs or two or fewer litters of cats in a calendar year or sells or transfers any dog or cat to any person or entity other than a dog or cat dealer or pet shop.

KENNEL -- A structure which complies with the Code of the Town of Geneva and which is intended for or used for the housing of dogs and/or cats.

DOG -- A live *Canis lupus familiaris*.

CAT -- A live *Felis catus*.

B. All other words and phrases used in this chapter shall have, for the purpose of this article, the meanings respectively ascribed to them by Chapters 55 and 165 of the Code of the Town of Geneva, by section 108 of the New York Agriculture and Markets Law and the Federal Animal Welfare Act (7 U.S.C. 2131 et seq.).

§55-23. Commercial Breeding Facility requirements.

A. A commercial breeding facility that has received a special use permit and site plan approval shall meet and operate under the following conditions:

1. All animals shall be kept in clean and sanitary premises, structures or enclosures.
2. All enclosures shall be structurally sound to contain the animals and to restrict the entrance of other animals, constructed from materials that can be easily cleaned and maintained in good repair to protect the dogs and/or cats from illness or injury.
3. Heating shall be deemed necessary when the inside ambient temperature of the facility falls below fifty (50) degrees Fahrenheit for a period of four (4) consecutive hours and cooling shall be required when the inside ambient temperature of the facility rises above seventy-five (75) degrees Fahrenheit.
4. Uniformly distributed natural and/or artificial lighting shall be provided to permit routine inspection and facilitate routine cleaning and the proper care and maintenance of the animals. Lighting shall be so arranged as to protect each animal from excessive illumination.
5. All facilities shall be adequately ventilated with fresh or filtered air to minimize drafts, odors and moisture condensation and to provide for the health and comfort of the animals at all times. Ventilation shall be provided by either natural or mechanical means. The necessary equipment or comparable means shall be provided to exhaust the air from the animal area to the outside of the building.
6. One (1) inside pen shall be provided for each dog or cat being boarded or kept. No person shall allow dogs or cats temperamentally or otherwise incompatible to be quartered so near each other as to cause injury, fear or torment.
7. Each inside pen shall be of sufficient space to allow the dog kept therein to be comfortable, and shall have no less than 25 square feet of floor area per dog. Enclosures must be large enough for dogs to stand fully erect on all four legs with at least (6) inches of headroom.
8. There shall be a minimum of one (1) outside run per pen and there shall be no more than one (1) dog per run at any one time. Each dog shall have access to the run daily.
9. Each outside run shall:
 - a) be a minimum of (3) feet in width and ten (10) feet in length except for dogs of the size of 100 lbs or more. For dogs 100 lbs or more, the run shall be four (4) feet width and ten (10) feet length;
 - b) have a concrete base;
 - c) be enclosed by a minimum of six (6) foot high fence, unless breed of dog requires an additional height to prevent jumping or climbing out or over, with secure gates, and shall deter dogs from

- d) provide a form of shelter if not directly linked to a separate indoor kennel area.
- 10. For cats, any inside pen shall have a minimum measurement of two (2) feet wide by two (2) feet in length for all cats. Any pen shall be of sufficient height for the cat to stand fully erect on all four legs with at least (3) inches of headroom.
- 11. No dog shall be left unattended for more than 12 consecutive hours at a commercial breeding facility.
- 12. All outdoor lights shall be shielded to direct light and glare onto the facility's premises and may be of sufficient intensity to ensure security. Lighting and glare shall be deflected, shaded and focused away from any adjoining property.
- 13. All dogs in any breeding facility shall be contained within an appropriate building between the hours of 11:00 p.m. and 7:00 a.m., local time, each day. Noise generated by dogs at the facility shall not be discernible beyond 300 feet of the structure, or the nearest off-site residential structure, whichever is nearer.
- 14. All dogs and cats on-site shall have yearly health checks with a veterinarian. The vaccination records shall be available upon request.
- 15. A maximum of ten (10) adult dogs and ten (10) adult cats shall be allowed in a commercial breeding facility. There shall be no more than two litters on the premises at any time.
- 16. The owner of a commercial breeding facility shall submit proof to the Town Code Enforcement Officer upon request that the owner belongs to his/her/its National Breed Club and subscribes to the National Breed Club's Code of Ethics.
- 17. Commercial breeding facilities shall prominently display their special use permit on the premises.

B. Inspection.

- 1. Prior to the commencement of any use or upon any control of a commercial breeding facility, the premises shall be inspected by the Town Code Enforcement officer, together with the Ontario County Animal Control Officer and found to be in compliance with the Geneva Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law, the Federal Puppy Protection Act of 2001 amendment to the Federal Animal Welfare Act and the Uniform Fire Prevention and Building Code.
- 2. Any owner and/or operator, employee of the owner and/or operator, or agent of the owner and/or operator, shall permit the Town Code Enforcement Officer, the Ontario County Dog Control Officer, representatives of the Ontario County Health Department, the Ontario County Sheriff's Department, the New York State Police, and the New York State Department of Health or any other Town, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of the commercial breeding facility for the purpose of

ensuring compliance with this article and with section 165-28.3 of the Zoning Code of the Town of Geneva at any time it is occupied or open for business.

§ 55-24. Non-Commercial Breeding Facility requirements.

A. A non-commercial breeding facility that has received a special use permit and site plan approval shall meet and operate under the following conditions:

1. All animals shall be kept in clean and sanitary premises, structures or enclosures.
2. All enclosures shall be structurally sound to contain the animals and to restrict the entrance of other animals, constructed from materials that can be easily cleaned and maintained in good repair to protect the dogs and/or cats from illness or injury.
3. No dog or cat shall be left unattended for more than 12 consecutive hours at a non-commercial breeding facility.
4. All dogs and cats on-site shall have yearly health checks with a veterinarian. The vaccination records shall be available upon request.
5. A maximum of seven (7) adult dogs and/or seven (7) adult cats shall be allowed in a non-commercial breeding facility.
6. The owner of a non-commercial breeding facility shall submit proof to the Town Code Enforcement Officer upon request that the owner belongs to his/her/its National Breed Club and subscribes to the National Breed Club's Code of Ethics.
7. Non-commercial breeding facilities shall prominently display their special use permit on the premises.

B. Inspection.

1. Prior to the commencement of any use or upon any control of a commercial breeding facility, the premises shall be inspected by the Town Code Enforcement officer, together with the Ontario County Animal Control Officer and found to be in compliance with the Geneva Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law, the Federal Puppy Protection Act of 2001 amendment to the Federal Animal Welfare Act and the Uniform Fire Prevention and Building Code.
2. Any owner and/or operator, employee of the owner and/or operator, or agent of the owner and/or operator, shall permit the Town Code Enforcement Officer, the Ontario County Dog Control Officer, representatives of the Ontario County Health Department, the Ontario County Sheriff's Department, the New York State Police, and the New York State Department of Health or any other Town, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of the commercial breeding facility for the purpose of ensuring compliance with this article and with section 165-28.4 of the Zoning Code of the Town of Geneva at any time it is occupied or open for business.

§55-25 Authority

The Code Enforcement Officer shall have the authority to examine the premises and locations of any buildings or structures in the Town of Geneva and shall determine whether or not they comply with the existing zoning laws and with this Article. The Animal Control Officer shall have the authority to inspect the premises and buildings and assess the conditions of the dogs and/or cats within the buildings and structures or on the premises in the Town of Geneva. The Code Enforcement Officer shall keep a permanent record of all violations of this article, whether reported by private citizens or by any board agency, officer or employee of the Town and such record shall show the disposition of all such violations.

§55-26 Pre-Existing Breeding Facilities

Pre-existing commercial breeding facilities and pre-existing non-commercial breeding facilities must be in compliance with this Article except as it pertains to such commercial breeding facilities or non-commercial breeding facilities having to obtain a special use permit and site plan approval. Pre-existing commercial breeding facilities and pre-existing non-commercial breeding facilities must obtain special use permit and site plan approval if they or any buildings, structures, improvements or use located thereon will be expanded or enlarged or if any buildings, structures, improvements or use will be added, whether such expansion, enlargement or addition is to bring such commercial breeding facility or non-commercial breeding facility in conformance with this Article or of the owner/applicant's own initiative.

Section 2. Section 165-3 of the Zoning Code of the Town of Geneva is hereby amended with insertion of the following definitions:

BREEDING FACILITY, COMMERCIAL -- Any building or lot in the Town of Geneva wherein a person or persons keep eight or more dogs or eight or more cats over twelve months of age, breeds three or more litters of dogs or three or more litters of cats in a calendar year or sells or transfers any dog or cat to a dog or cat dealer or pet shop.

BREEDING FACILITY, NON-COMMERCIAL -- Any building or lot in the Town of Geneva wherein a person or persons keep fewer than eight dogs or fewer than eight cats over twelve months of age, breeds two or fewer litters of dogs or two or fewer litters of cats in a calendar year or sells or transfers any dog or cat to any person or entity other than a dog or cat dealer or pet shop.

KENNEL -- A structure which complies with the Code of the Town of Geneva and which is intended for or used for the housing of dogs and/or cats.

DOG -- A live *Canis lupus familiaris*.

CAT -- A live *Felis catus*.

Section 3. Schedule I – Permitted Uses in Section 165-7 of the Zoning Code of the Town of Geneva is hereby amended by changing the Type of Use of “Veterinarian office, animal hospital or kennels” under the “Business Uses” heading to read “Veterinarian office, animal hospital, commercial breeding facility, non-commercial breeding facility or kennel”.

Section 4. Chapter 165 (Zoning) of the Zoning Code of the Town of Geneva is hereby amended with the addition of a new section 165-28.3 to read as follows:

§ 165-28.3. Commercial Breeding Facility special use permits.

A. Legislative intent.

It is the intent of this section to set forth regulations regarding the establishment, maintenance and operation of commercial breeding facilities, to protect and preserve the health, safety and welfare of the dogs and cats in these commercial breeding facilities as well as of the public who will work in, patronize, visit, conduct business with or otherwise come in contact with commercial breeding facilities, and further to enable the Town to maintain an ongoing record of commercial breeding facilities.

B. Establishment of a special use permit for commercial breeding facilities.

The Zoning Board of Appeals shall issue the special use permit and shall ensure 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.

1. All enclosures shall be structurally sound to contain the animals and to restrict the entrance of other animals, constructed from materials that can be easily cleaned and maintained in good repair to protect the dogs and/or cats from illness or injury.
2. Heating and cooling shall be available in the facility so that heating can be provided when the inside ambient temperature of the facility falls below fifty (50) degrees Fahrenheit for a period of four (4) consecutive hours and so that cooling can be provided when the inside ambient temperature of the facility rises above seventy-five (75) degrees Fahrenheit.
3. Uniformly distributed natural and/or artificial lighting shall be provided to permit routine inspection and facilitate routine cleaning and the proper care and maintenance of the animals. Lighting shall be so arranged as to protect each animal from excessive illumination.
4. All facilities shall be adequately ventilated with fresh or filtered air to minimize drafts, odors and moisture condensation and to provide for the health and comfort of the animals at all times. Ventilation shall be provided by either natural or mechanical means. The necessary equipment or comparable means shall be provided to exhaust the air from the animal area to the outside of the building.
5. One (1) inside pen shall be provided for each dog or cat being boarded or kept.
6. Each inside pen shall be of sufficient space to allow the dog kept therein to be comfortable, and shall have no less than 25 square feet of floor area per dog. Enclosures must be large enough for dogs to stand fully erect on all four legs with at least (6) inches of headroom.
7. There shall be a minimum of one (1) outside run per pen.
8. Each outside run shall:
 - a. be a minimum of (3) feet in width and ten (10) feet in length except for dogs of the size of 100 lbs or more. For dogs 100 lbs or more, the run shall be four (4) feet width and ten (10) feet length;
 - b. have a concrete base;
 - c. be enclosed by a minimum of six (6) foot high fence, unless breed of dog requires an additional height to prevent jumping or climbing out or over, with secure gates, and shall deter dogs from escaping over, under or through the fence; said fence must be a good grade, commercial chain

link or welded wire fence carried on solid posts set in concrete with a minimum of eleven (11) gauge wire and two-inch steel posts set on no greater than ten (10) foot spans; other types of fencing may be required and/or approved on a case-by-case basis;

- d. provide a form of shelter if not directly linked to a separate indoor kennel area.
9. For cats, any inside pen shall have a minimum measurement of two (2) feet wide by two (2) feet in length for all cats. Any pen shall be of sufficient height for the cat to stand fully erect on all four legs with at least (3) inches of headroom.
10. Sewage and waste shall be disposed of by connection of drains to a sanitary sewer or a state, county or locally approved sewage disposal system. Drainage systems shall be provided with back flow prevention devices on submersible inlets and hair traps, if required by law, on all plumbing lines in animal areas where hoses may be attached for cleaning of the facility.
11. Within a watershed protected area, outdoor animal facilities shall be separated by a vegetative buffer of not less than one hundred (100) feet from any stream, wetland, or other surface water features including wet detention ponds. In all other areas, outdoor animal facilities shall be separated by a vegetative buffer of not less than fifty (50) feet from any stream, wetland, or natural surface water feature.
12. Commercial breeding facilities must be located on a lot having at least five acres, or on lands that have been granted all necessary variances for location of the facility thereon. All buildings and structures housing animals, and all pens, runs and open areas where dogs are allowed shall be located no closer than 300 feet to any lot or street line. All storage areas, including dumpsters, shall be sited to the rear of the building, within the setbacks required of the zoning district.
13. All facilities shall be adequately screened by fence, plantings or landscaping from all roads and adjacent properties. All fences used for screening shall have a height of six (6) feet. All vegetative screening and buffers shall have a height of six (6) feet or more within four (4) growing seasons.
14. All outdoor lights shall be shielded to direct light and glare onto the facility's premises and may be of sufficient intensity to ensure security. Lighting and glare shall be deflected, shaded and focused away from any adjoining property.
15. The owner of a commercial breeding facility shall submit proof to the Town Code Enforcement Officer upon request that the owner belongs to his/her/its National Breed Club and subscribes to the National Breed Club's Code of Ethics.
16. Due to the Town's and the public's interest in ensuring that dogs and cats are being treated properly, in a healthy and safe manner and in accordance with all local, state and federal laws, the Zoning Board of Appeals may condition any special use permit approval on the owner/applicant having to renew said special use permit within a time period specified by the Zoning Board of Appeals from the effective date of the initial special use permit or any renewal issued thereafter, with the owner/applicant having to be in full compliance with all provisions of this section and of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva at the time such renewal is being requested. The Zoning Board of Appeals shall not renew any special use permit for a commercial breeding facility that has been found by any Court of the State of New York at any time to be in violation of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva or of this section 165-28.3. Where a commercial breeding facility has been the subject of

a complaint or complaints of any violation of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva or of any violation of this section 165-28.3, the Zoning Board of Appeals may base a determination to not renew a special use permit on, among other things, the existence of such complaint or complaints, their nature, whether or not the commercial breeding facility has fully corrected such violation or violations and the timeliness and thoroughness of curing such violation or violations.

17. In the event there is some dispute over whether a Special Use Permit should be renewed, a veterinarian may be retained to advise the Zoning Board of Appeals. The owner shall pay the veterinarian's charge for inspection, and said payment shall be made to the Town of Geneva prior to the inspection. Failure to pay the veterinarian charges shall bar renewal of the license.
18. All commercial breeding facilities shall supply proof that the proposed facility will comply with all requirements of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva and other provisions of the Code of the Town of Geneva.
19. Prior to the commencement of any use or upon any control of a commercial breeding facility, the premises shall be inspected by the Town Code Enforcement officer, together with the Ontario County Animal Control Officer and found to be in compliance with the Geneva Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law, the Federal Puppy Protection Act of 2001 amendment to the Federal Animal Welfare Act and the Uniform Fire Prevention and Building Code.
20. Any owner and/or operator, employee of the owner and/or operator, or agent of the owner and/or operator, shall permit the Town Code Enforcement Officer, the Ontario County Animal Control Officer, representatives of the Ontario County Health Department, the Ontario County Sheriff's Department, the New York State Police, and the New York State Department of Health or any other Town, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of the commercial breeding facility for the purpose of ensuring compliance with this section and with Article III, as amended, of Chapter 55 of the Code of the Town of Geneva at any time it is occupied or open for business.
21. If, upon inspection as described above, it shall be found that the operator has violated any provisions of this section or of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva, the Zoning Board of Appeals shall have the power to revoke or suspend the permit and order the animals removed or facility closed after notice and an opportunity for the owner to be heard.
22. No person who has been convicted of cruelty to animals shall be issued a permit to operate any breeding facility.
23. A permit issued on the basis of false information supplied by the applicant shall be revoked/denied and the operation of the subject breeding facility shall be terminated.
24. The Code Enforcement Officer shall have the authority to examine the premises and locations of any buildings or structures in the Town of Geneva and shall determine whether or not they comply with the existing zoning laws. The Animal Control Officer shall have the authority to inspect the premises and buildings and assess the conditions of the dogs/cats within the buildings and structures in the Town of Geneva. The Code Enforcement Officer shall keep a permanent record of all violations of this article, whether reported by private citizens or by any board agency, officer or employee of the Town and such record shall show the disposition of all such violations.

25. A site plan, to be approved by the Town Planning Board, is required and shall show the following:
- a. The lot, lot size, set backs and dimensions of all proposed buildings, training and exercise yards, runs, pens, fencing and related improvements;
 - b. Pre-existing structures on the same lot, and principal structures on other properties that would affect setbacks;
 - c. All buildings, structures, enclosures, pens, runs, fencing, plantings, landscaping, lighting, sewage disposal plans, drainage plans, parking, access areas, buffers and/or screening devices for facilities and areas;
 - d. The anticipated kinds and maximum number of animals to be housed at one time;
 - e. A sign that meets the standards of the zoning district;
 - f. A statement of whether the commercial breeding facility is situated partly or wholly within a watershed protected area;
 - g. Any stream, wetland, or other surface water features, including wet detention ponds, located within one hundred (100) feet of the site if the commercial breeding facility is situated partly or wholly within a watershed protected area and any stream, wetland, or other surface water features, including wet detention ponds, located within fifty (50) feet of the site if the commercial breeding facility is not situated partly or wholly within a watershed protected area;
 - h. Any other relevant elements as requested by the Planning Board.

Section 5. Chapter 165 (Zoning) of the Zoning Code of the Town of Geneva is hereby amended with the addition of a new section 165-28.4 to read as follows:

§ 165-28.4. Non-commercial Breeding Facility special use permits.

A. Legislative intent.

It is the intent of this section to set forth regulations regarding the establishment, maintenance and operation of non-commercial breeding facilities, to protect and preserve the health, safety and welfare of the dogs and cats in these non-commercial breeding facilities as well as of the public who will work in, patronize, visit, conduct business with or otherwise come in contact with non-commercial breeding facilities, and further to enable the Town to maintain an ongoing record of non-commercial breeding facilities.

B. Establishment of a special use permit for non-commercial breeding facilities.

The Zoning Board of Appeals shall issue the special use permit and shall ensure 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.

1. All enclosures shall be structurally sound to contain the animals and to restrict the entrance of other animals, constructed from materials that can be easily cleaned and maintained in good repair to protect the dogs and/or cats from illness or injury.
2. The owner of a non-commercial breeding facility shall submit proof to the Town Code Enforcement Officer upon request that the owner belongs to his/her/its National Breed Club and subscribes to the National Breed Club's Code of Ethics.
3. Due to the Town's and the public's interest in ensuring that dogs and cats are being treated properly, in a healthy and safe manner and in accordance with all local, state and federal laws, the Zoning Board of Appeals may condition any special use permit approval on the owner/applicant having to renew said special use permit within a time period specified by the Zoning Board of Appeals from the effective date of the initial special use permit or any renewal issued thereafter, with the owner/applicant having to be in full compliance with all provisions of this section and of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva at the time such renewal is being requested. The Zoning Board of Appeals shall not renew any special use permit for a non-commercial breeding facility that has been found by any Court of the State of New York at any time to be in violation of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva or of this section 165-28.4. Where a non-commercial breeding facility has been the subject of a complaint or complaints of any violation of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva or of any violation of this section 165-28.4, the Zoning Board of Appeals may base a determination to not renew a special use permit on, among other things, the existence of such complaint or complaints, their nature, whether or not the non-commercial breeding facility has fully corrected such violation or violations and the timeliness and thoroughness of curing such violation or violations.
4. In the event there is some dispute over whether a Special Use Permit should be renewed, a veterinarian may be retained to advise the Zoning Board of Appeals. The owner shall pay the veterinarian's charge for inspection, and said payment shall be made to the Town of Geneva prior to the inspection. Failure to pay the veterinarian charges shall bar renewal of the license.
5. All non-commercial breeding facilities shall supply proof that the proposed facility will comply with all requirements of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva and other provisions of the Code of the Town of Geneva.
6. Prior to the commencement of any use or upon any control of a non-commercial breeding facility, the premises shall be inspected by the Town Code Enforcement officer, together with the Ontario County Animal Control Officer and found to be in compliance with the Geneva Town Code, the New York State Agriculture and Markets Law, the New York State General Business Law, the Federal Puppy Protection Act of 2001 amendment to the Federal Animal Welfare Act and the Uniform Fire Prevention and Building Code.
7. Any owner and/or operator, employee of the owner and/or operator, or agent of the owner and/or operator, shall permit the Town Code Enforcement Officer, the Ontario County Animal Control Officer, representatives of the Ontario County Health Department, the Ontario County Sheriff's Department, the New York State Police, and/or the New York State Department of Health or any other Town, county or state department or agency that has permitting authority regarding the use of the premises to inspect the premises of the non-commercial breeding facility for the purpose of ensuring compliance with this section and with Article III, as amended, of Chapter 55 of the Code of the Town of Geneva at any time it is occupied or open for business.

8. If, upon inspection as described above, it shall be found that the operator has violated any provisions of this section or of Article III, as amended, of Chapter 55 of the Code of the Town of Geneva, the Zoning Board of Appeals shall have the power to revoke or suspend the permit and order the animals removed or facility closed after notice and an opportunity for the owner to be heard.
9. No person who has been convicted of cruelty to animals shall be issued a permit to operate any breeding facility.
10. A permit issued on the basis of false information supplied by the applicant shall be revoked/denied and the operation of the subject breeding facility shall be terminated.
11. The Code Enforcement Officer shall have the authority to examine the premises and locations of any buildings or structures in the Town of Geneva and shall determine whether or not they comply with the existing zoning laws. The Animal Control Officer shall have the authority to inspect the premises and buildings and assess the conditions of the dogs/cats within the buildings and structures in the Town of Geneva. The Code Enforcement Officer shall keep a permanent record of all violations of this article, whether reported by private citizens or by any board agency, officer or employee of the Town and such record shall show the disposition of all such violations.

Section 6. Paragraph A. of §165-79 of the Code of the Town of Geneva is hereby repealed and a new Paragraph A. is inserted in its place to read as follows:

A. A violation of this chapter is an offense, punishable as provided in Chapter 1, General Provisions, Article III of the Code of the Town of Geneva. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed violations and for such purpose only all provisions of law relating to violations shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

Section 7. §165-79 in Chapter 165 (Zoning) of the Code of the Town of Geneva is hereby amended with the addition of a new Paragraph C. to read as follows:

C. The Town may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this Chapter.

Section 8. Paragraph A. of §1-16 of the Code of the Town of Geneva is hereby repealed and a new Paragraph A. is inserted in its place to read as follows:

A. Unless otherwise specifically provided, the violation of any law, ordinance, rule, regulation or any specific provision or provisions thereof adopted by the Town Board as a part of this Code shall be deemed an offense against such law, ordinance, rule, regulation or provision thereof, punishable by a fine not to exceed \$250 or imprisonment of not more than fifteen (15) days, or both such fine and imprisonment.

Section 9. 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 10. This local law shall take effect immediately upon filing with the Secretary of State.

8) APPOINT KIM STONE-GRIDLEY: Motion to appoint Kim Stone-Gridley to the position Clerk (Mentor) (Part Time) not to exceed 18 months as allowed per Civil Service Law Section 64.3 for the Town of Geneva retroactive from August 13th, 2010. Motion made by Councilman Larsen, second by Councilman Riley.

Discussion: None
Motion unanimously approved

9) SEQR FOR LOCAL LAW NO. 5- 2010 THE RIGHT TO FARM LAW: (REFER TO ADDENDUM # 3) Review of SEQR Short Form Part 2.

10) RESOLUTION NO. 35-2010 DETERMINATION OF SIGNIFICANCE FOR THE RIGHT TO FARM LAW : Motion to make a Determination of Significance for Local Law 5- 2010 the Right to Farm Law. Motion made by Councilman Larsen, second by Councilman Capozzi.

Discussion: None

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

RESOLUTION NO. 35 - 2010

**DETERMINATION OF SIGNIFICANCE
LOCAL LAW 5-2010 ADOPTING RIGHT TO FARM LAW**

WHEREAS, the Town of Geneva Town Board, hereinafter referred to as Town Board, has determined the Local Law Adopting a Right to Farm Law to be an Unlisted action under the State Environmental Quality Review (SEQR) Regulations, and,

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

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

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

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

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

I, Lorrie S. Naegele, Town Clerk of the Town of Geneva do hereby certify that the Town Board of the Town of Geneva on October 12, 2010 adopted the aforementioned resolution, 35- 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: October 12, 2010

Lorrie S. Naegele, Town Clerk

11) APPOINT PHILLIP ILACQUA: Motion to appoint Phillip Ilacqua to complete the unexpired term of John Russo who has resigned from the Zoning Board of Appeals the term will be from October 12, 2010 to December 31, 2013. Motion made by Councilman Larsen, second by Councilman Smith.

Discussion: The Board reviewed three applications for the position.
Motion unanimously approved

12) SUPERVISOR'S REPORT: Motion to accept the Supervisor's Report made by Councilman Capozzi, second by Councilman Larsen.

Discussion: Leander's Law was passed. If you register your vehicles at the Geneva or Canandaigua Motor Vehicles the money will stay in Ontario County.
Motion unanimously approved.

13) ADDENDUM:

1. UNPAID WATER AND SEWER BILLS: Resolution by the Town Board of the Town of Geneva to authorize and direct the Water & Sewer Departments to prepare a list of all unpaid water and Sewer Bills, as of November 1, 2010 and submit such list to the Town Board and Ontario County Real Property Tax Department for inclusion in the 2011 Tax Bill. Motion made by Councilman Capozzi, second by Councilman Larsen.

Discussion: None
Motion unanimously approved.

2. SNOW AND ICE CONTRACT: Motion to approve a contract between Ontario County and the Town of Geneva for snow and ice control services from October 1, 2010 to expire on September 30, 2011. Motion made by Councilman Capozzi, second by Councilman Larsen.

Discussion: None
Motion unanimously approved.

3. INTEGRATED SERVICES CONTRACT: Motion to approve a contract with Integrated Services for 50 Service Hours at a cost of \$4,250.00. Motion made by Councilman Larsen, second by Councilman Smith.

Discussion: None
Motion unanimously approved.

14) CORRESPONDENCE:

1. Lt. Gallagher's Report - The Town has not received a bill from the Sheriffs office as of this date.

15) OLD BUSINESS: None

Discussion: None
Motion unanimously approved.

16) NEW BUSINESS:

Budget Workshop Meeting will be Tuesday, October 19, and Wednesday, October 20th, 2010 if needed at 7:00 P.M.

Budget Public Hearing Meeting: will be Wednesday, November 3, 2010 at 7:00 P.M.

•Councilman Capozzi asked if the Town was going to stripe White Springs Road. Supervisor Luckern will look into it.

17) BUILDING PERMITS CO-SIGNED: Motion to approve the Planning Board Chairperson to co-sign all building permits on the following projects Site Plans, PUD, Major and Minor sub-divisions. Motion made by Councilman Riley, second by Supervisor Luckern.

Discussion: None
Motion unanimously approved.


18) PRIVILEGE OF THE FLOOR: Gerry Acquilano- Turk Road, read from the attached statement. Supervisor Luckern stated that she would look into the situation.

12 October 10

SLATE ROCK ROAD

1. Graffiti plastered all over the guard rails, a real mess. The meanings of the graffiti are not conducive to the wonderful neighboring Slate Rock Rd tax payers. A shameful sight that's been there too long.

2. A simple quart of silver paint, a brush, and an hour of work by a Town of Geneva Highway worker will clean it up. It will change the area dramatically.
3. Many of us that live in the area like to walk through that area, enjoy the falling water of the falls, and the change of seasons. Some walk, some run, some bike, but the views there are beautiful, tranquil and refreshing. It is a mess that needs some simple, thoughtful cleaning and reconditioning.
4. There should be a trash can installed, attached to the tree there and above it, possibly on the same tree, a sign indicating anyone littering will be fined, and/or arrested.
5. There are many of the neighboring tax payers like myself who have stopped there, picked up trash, and removed it to our own trash barrels, not necessary when we have a Town Highway Dept who could simply toss the barrel once it's filled.
6. ^ I want this taken care of immediately, not next week, next month, but right away. The graffiti has been on those guard rails for over two (2) years! Time to get with it.


Gerry Acquilano
(Turk Road Tax Payer)

19) ADJOURN: Motion to adjourn made by Councilman Capozzi, second by Councilman Smith.
Motion unanimously approved.

9:00 - P.M.
RESPECTFULLY SUBMITTED
