

THE GENEVA CITY COUNCIL

JOURNAL OF PROCEEDINGS

REGULAR COUNCIL MEETING

MAY 3, 2017 – 7:00PM

Presiding – Ron Alcock, Mayor
Present – Matt Horn, City Manager

1. PRESENT: Clr. Camera, Clr. Gramling, Clr. Valentino, Clr. D'Amico, Clr. Marino, Clr. Eddington, Clr. Hagerman (arrived at 6:09pm)
EXCUSED: Clr. Greco

2. EXECUTIVE SESSION FOR THE PURPOSES OF DISCUSSING THE PERFORMANCE OF A PARTICULAR EMPLOYEE

ACTION TAKEN by Clr. Valentino; seconded by Clr. Eddington
MOVED THAT Council move to Executive Session for the purposes of discussing the performance of a particular employee at 6:02pm
ROLL CALL: Aye – Clr. Camera, Clr. Gramling, Clr. Valentino, Clr. D'Amico, Clr. Marino, Clr. Eddington, Mayor Alcock
Absent – Clr. Greco, Clr. Hagerman
MOTION CARRIED (7-2 absent)

ACTION TAKEN by Clr. Valentino; seconded by Clr. Eddington
MOVED THAT Council exit Executive Session at 6:55pm
ROLL CALL: Aye – Clr. Camera, Clr. Gramling, Clr. Valentino, Clr. D'Amico, Clr. Marino, Clr. Eddington, Clr. Hagerman, Mayor Alcock
Absent – Clr. Greco
MOTION CARRIED (8-1 absent)

Mayor Alcock called the regular session to order at 7:03pm.

Gary Baxter, along with Gene Becker, Commander of Veterans of Foreign Wars informed City Council and others present that he is the facilitator for the upcoming annual Memorial Day Parade to be held on Monday, May 29th at 10:00am. He said the parade will form at the corners of Exchange and Seneca Streets and he will have some convertibles available for the Mayor and City Councilors to ride in. If thunderstorms occur, the parade will not take place.

3. GENEVA FOUNDRY UPDATE

City Manager Horn provided the following general Foundry updates that will be on a new section of the City website dedicated specifically to the Geneva Foundry Project. There will also be a place where you can sign up to receive Foundry-related notifications:



NYSDEC Neighborhood Remediation Update May 3, 2017

Staging Area

- Since last Council update, the City provided access to the State Contractors to establish a staging area for the neighborhood work on State Street
 - During set up, the State contractors discovered two underground storage tanks that had to be removed
- The contractors have worked to grade and fence this area, and to install a trailer with electric service for their operations

Work at the “Priority Sites”

- Properties have been identified as a priority site “based upon use (such as day care facilities), proximity to the former foundry site, and ability to secure access with the property owner.”
 - 28 signed consent forms returned out of 31 letters sent out (as of April 21st)
- Pre-Design sampling status
 - The contractors are completing the pre-design sampling in the Jackson / State / Center Street areas
 - Sampling is with being conducted with a geoprobe, as well as manual macro-core samples at pre-design parcels where there was no access for the geoprobe
 - Sampling was started in the back yards while a private locator was hired to mark sewer and water service line locations to houses
 - Initial soil core sampling was completed at 27 Phase 1 design parcels (including the staging area)
 - Two properties (81 State and 65 Genesee) are partially complete
 - Two more properties (234 Exchange and 25 State), where access was just recently received, are awaiting sampling pending utility clearance (expected to be ready today)
 - DEC anticipates completing soil core sampling at design parcels this week

- Analytical results are expected to start arriving by May 5th. The data will then be reviewed, validated, and tabulated prior to distribution to each property owner.
- Surveys
 - Property surveys for all design parcels are complete and files are being prepared by surveyor.
 - Field surveys of sampling locations and property features are complete at 14 of the design parcels and that surveying continues this week and next
- Structural Inspections / Landscaping
 - Landscape and tree inventories are scheduled to start next week
 - Building structural inspections will be scheduled and will begin

Work at the “Boundary Sampling” Sites

- Access Agreements
 - Permission has been received at 98 of 155 parcels.
 - Encourage owners to send in the access letters to NYSDEC
- Sampling
 - Sampling is complete at 37 parcels
 - Analytical results are expected to start arriving by May 5th. The data will then be reviewed, validated, and tabulated prior to distribution to each property owner.
 - DEC anticipates completing screening/boundary soil sampling the week of May 15th; receipt of additional access agreements will extend this schedule.
- Surveying
 - Surveying of sampling locations is pending completion of design parcel surveying.

Foundry Remediation

- Brownfield Cleanup Agreement was executed by NYSDEC in March
- The City is awaiting comments from NYSDEC to the Work Plan submitted in April
- We expect a public meeting on the remediation in June
- We expect the remediation will happen in August

Litigation Update

- Nearly 100 Notices of Claims were filed against the City in January

- The City was obligated to send Notices to the Claimants to schedule a 50-h hearing within 90 days, which it did
- The City must complete the 50-h hearings within 90 days after the Notices, so those are scheduled from April through June
- The day before the 50-h hearings were scheduled to start, the City was notified that the law firm for the Claimants, Smith Sovik, was withdrawing as counsel for the Claimants in this matter with the exception of two Claimants
- Smith Sovik has told the City to contact its clients directly to schedule the 50-h hearings, as they no longer represent the residents
- As a result, the City will be sending those notices directly to the Claimants next week to schedule the 50-h hearings

Foundry Presentation

At Council's request, City Manager Horn said there is a resolution on tonight's agenda that addresses public concerns related to the former Geneva Foundry. He walked Council and the community through some points and the reasoning behind the resolution. He said the resolution is a set of directives from Council to staff as this project continues to evolve.

City Manager Horn said the resolution has three parts:

1. Provide the community with factual background on foundry acquisition, how the City got involved in this project and roles of City and State in environmental investigation and remediation

- The City took title to the Foundry in 1998 due to abandonment and concern for public safety and neighborhood condition
- The City entered into a contract with the State to collect and provide data so that the State could develop a cleanup plan
- The City Completed its investigation and provided all results to the NYSDEC in 2006
- City Council, City Staff and Contractors pressed the DEC for a determination in the succeeding years
- The State took no additional action until 2015 at which time it collected its own samples
- In late 2016, the State released the investigation results and its proposed plan for cleanup
- In 2017, the City received notification from the DEC that all investigation activities were concluded in accordance with DEC policy and had been addressed
- Also in 2017 and approved by City Council, the City voluntarily entered into a Brownfield Cleanup Agreement with the State to address the former Foundry site
- The City entered into this agreement so that the State can access cleanup funds for neighborhood properties and entry into this agreement requires the City to take action to remediate the former Foundry site

2. Clarify existing rules and procedures for Council meetings

- The previous City Council established rules and procedures for the conduct of Council meetings
- The policy addresses how meetings are calendared and conducted and deals with a wide range of issues concerning public comment, generally limiting speakers to 3 minutes each
- Speakers may contact the City Clerk or Mayor in advance to request additional time
- Rules require that speakers address the full Council and not individual Councilors

3. Develop a clear path forward for information sharing with the public and advocacy with respect to cleanup efforts

- Council has charged staff with providing a report on Foundry-related matters as the first item on every agenda
- Council has directed City staff to amend all future access agreements to provide for release of testing data if requested by the property owner
- Council urges residents to request similar consideration when signing access agreements with other agencies (that they also have access to the data)

- Council confirms its directive to City staff to utilize the GNRC as an advocate and information source for resident concerns with the cleanup efforts (materials also available in bilingual format)

4. PUBLIC HEARINGS: SALE OF 7 EAST NORTH STREET, 11 EAST NORTH STREET AND 14 NORTH EXCHANGE STREET

City Manager Horn noted these properties are on the corner of North and Exchange Streets. These properties are mixed in with parcels owned by the LDC and the IDA that were targeted in both the Brownfield Opportunity Area Study and the Comprehensive Plan as priority redevelopment areas and an RFP has been issued for redevelopment. This public hearing is in preparation for readying the site for development.

Mayor Alcock opened Public Comment at 7:37pm. As no persons of interest came forward, Mayor Alcock closed Public Comment at 7:38pm.

5. CONSIDERATION OF MEETING MINUTES

ACTION TAKEN by Clr. Valentino; seconded by Clr. Eddington
MOVED THAT the minutes of the April 5, 2017 regular City Council meeting be approved

ROLL CALL: Aye – Clr. Valentino, Clr. D’Amico, Clr. Marino, Clr. Hagerman, Clr. Camera, Clr. Gramling, Clr. Eddington

Abstained – Mayor Alcock

Absent – Clr. Greco

MOTION CARRIED

ACTION TAKEN by Clr. Eddington; seconded by Clr. Valentino
MOVED THAT minutes of the April 19, 2017 special City Council meeting be approved

ROLL CALL: Aye – Clr. Eddington, Clr. Camera, Clr. D’Amico, Clr. Marino, Clr. Valentino, Mayor Alcock

Abstained – Clr. Hagerman, Clr. Gramling

Absent – Clr. Greco

MOTION CARRIED

6. CORRESPONDENCE

The City Clerk reported that on April 12, 2017 a Notice of Claim was filed by Debra Iddings. Claimant alleges she fell on a patch of ice and sustained personal injuries while crossing the road at the corner of Genesee Street.

7. PUBLIC COMMENT

Shannon Thibault, 22 State Street. Ms. Thibault said she had some concerns regarding some private sector work that was done in the contamination area and asked Council to place some policy and procedures for that. The City was given protocol from New York State DEC any work being done with the offsite boundaries and ask that that also be held when anyone files for a building permit to do any work, particularly concerning the ground. She said she voiced her concerns and she did hear back from City staff and she thanked

them for the follow-up. She urged the City to take into consideration that she and her family live there and to do whatever you can do to ensure their safety.

Brian Olson, 22 Delancey Drive. Mr. Olson said he is opposed to the Resolution that Council is proposing tonight. He said the City should be resolved to answering all questions residents have about the Foundry contamination regardless of how difficult it might be, as it is primary responsibly of all elected officials and administrators to be forthright when addressing issues of great concern to the public. It is good to hear that the City is now proactively addressing concerns of those personally affected by the contamination, noting there are gaps that need to be filled in so that residents can trust that the City will do the right thing in the future. Maybe the DEC did not respond with a remediation plan in a timely way, but residents have questions as to why the City did not move to notify affected people about sample results much sooner than 2016. He questioned why residents should not be allowed to ask these questions of individuals who were supposed to act in our best interest. To stifle a discussion is to say that consequences for not acting in a timely manner have no relevance. Mistakes are uncomfortable and citizens who have been exposed to health risks face a future of uncertainty that is even more uncomfortable to contemplate. We don't need a resolution to make this front and center at every Council meeting as you have done, which is good and should be at the top of every agenda until every question is answered and every citizen is satisfied and the City is made accountable for what it did and did not do. The people that must live with these results of this tragedy deserve no less.

Marcela Romero, 225 Genesee Street. Spoken in Spanish, translated version below: Ms. Romero said she is so happy that the Council speaks Spanish because now what she will say will make sense and more comfortable for her. She said working with a community that is affected by the contamination of the Foundry is one thing but evidently you guys are aware that you guys represent the community for her – a community that is bilingual and she applauds the work that you guys are trying to do to include some documents in Spanish, but she also thinks it is important that there be an excess of all information whole they don't just speak English. They speak Spanish and Arabic and since you are representatives of the entire community she proposes that you not only have some communications in English and Spanish but there also should be a translator or an interpreter for everyone. She said an example is there is a gentleman sitting in the back in this room who has no idea of what's going on he has no solutions and he can't agree with you because he cannot understand what is going on. She advises that the City communicate with everyone and not just people that own property or homes but with all residents, which are the people suffering every day. She said City officials should understand the entire community they represent, apologize and do the correct thing.

Samantha Sciolino, 152 Genesee Street. Ms. Sciolino said there are consequences to all actions and choices that everyone makes. She said she has lived in Geneva for the past 7 years and has found that the people in this City are welcoming, kind and ready to help one another when the need arises; however, it seems the same cannot be said for the people that run this great City. She said when they found out about the poison soil, they were scared and uneducated about the situation that caused such a panic because they did not know what to do. They could not sell their home because her property had no value due to the contaminated soil. There seems to be little or no concerns for the families living under the label of the contamination zones by those who we voted for to be our voice and who are supposed to have the City and peoples' best interests at heart. Over the last year or so, her husband has repeatedly gone to multiple doctors trying to find a cause for sporadic

severe abdominal pain and other health conditions. He has also been diagnosed with liver disease and is only 33 years old. After researching further on their own they found these are all common symptoms of high lead and arsenic in the blood system, noting he has spent countless hours digging in their dirt, building, creating and fixing their home. They have spent seven summers of eating vegetables from their garden made from dirt from their yard, and their therapy and service dog has had tumors removed from his body. She said she and her husband feel that their choice to start a family has been taken away from them. She said we deserve answers, we deserve to be acknowledged and we deserve to be heard.

Elizabeth Johnson, 453 S. Main Street. Ms. Johnson said she is a visiting professor of environmental studies at HWS and does not live in the contamination zone, but she speaks as a concerned citizen of this City and as someone who has spent over a decade of reading, writing and teaching on environmental histories, ecological degradation and environmental injustice. She said from what she has read from foiled documents and of lead and arsenic contamination, the Foundry site is a textbook case of environmental injustice and gross negligence on the part of the City and the DEC. As such, she said this is a compounded tragedy, as residents have been growing gardens and allowing their children and pets to play in soils with toxic levels of lead and arsenic for decades. For some of us, she said those that could afford to buy property on South Main Street, Washington or in Castle Heights have bought distance from acute sites of contamination while others learned they are living amongst high levels of toxic chemicals for far, far too late compounds this injustice. She said this is not a new strategy nor is it unique to Geneva but rather played out again and again in cities throughout New York State and elsewhere. Ms. Johnson said City Council should have known better than to keep knowledge of toxic soils a secret and to treat the lives of the people in this City as disposable, as this is the final component of this tragedy. The residents of this City have now been given cause for mistrusting this institution for seeing City Council as an institution that capitulates to the interests and commerce rather than the people. In becoming elected officials of this City, all the members of the Council that sit today may not be the blame directly for this tragedy, but they are all responsible for it. She added not only are they responsible for cleanup moving forward quickly but also for responsible for restoring trust and faith in the institutions that have failed the people, which needs to begin with an honest apology to the citizens of this City and a determined commitment to work for all Genevans.

Natalie Knott, 12 Universal Avenue. Ms. Knott said there is a real accountability issue here and a real disconnect from how people who are making decisions power the City. In terms of the accountability issue, she said some of the developments in the City Manager's Foundry presentation were wonderful and something that should have happened long before now, questioning why this just happened now. From the outside, she said it looks like this body intended and hoped that people forgot about this neighborhood. She added it only highlights the gaping absence of any kind of recognition of accountability by this decision-making body and this staff and the gross injustice that has been done to the residents in the contamination area. As far as the City, the people in here and the Foundry neighborhood is the City. We are all connected and there needs to be a reconnecting with what this body is and what it does and who they are responsible to. The part of the resolution that refers to how residents can speak to them does not cross Supreme Court recognized profanity lines, questioning whether Council likes being sued.

Laura Salamendra, 2 Universal Avenue. Ms. Salamendra said she is speaking as a concerned resident and on behalf of the Geneva Women's Assembly. She said she has been listening to affected people of the contamination zone and people are sick and people are scared, noting one thing is clear and that is residents feel that the City of Geneva is failing them. City Council can continue to insist that they did everything right but that does not mean it's true. You appear to hide behind your attorneys rather than listen to, defend and protect your neighbors. She said the proposed resolution limits criticism of Councilors during Public Comment, questioning if they've forgotten who they work for. Residents must be able to criticize Councilors for their policies and for their behavior as they answer to the public. She said shame on Council for attempting to silence your constituents and she urged Council to vote against the resolution tonight in the interest of free speech. She said Gordy Eddington does not have the trust of the people in matters of the Foundry because of his conduct as former Director of Public Works. We cannot trust that he will do what's best for the City because he might be more interested in shielding himself from liability and criticism. She added the City Council should demand that Gordy Eddington recuse himself in matters related to the Foundry. She said the City of Geneva owes residents an apology for the way they've handled this issue for the last 20 years. She said people are still living in poison. She asked how will you make this right for them, what will you do to keep them safe until the last yard is cleaned up? She encouraged Council to get on the right side of this, noting the City of Geneva must do better.

Jackie Augustine, 263 Washington Street. In terms of the Foundry resolution on the agenda tonight, Ms. Augustine said she does not recognize the voice. She added she has worked with many Council members for many years and this is not a statement of conscience or concern or compassion in any way, noting 23 clauses and 8 "therefore be it resolves" is not what this City or residents deserve – an incomplete and offensive resolution. She said clauses #3 through #6 addresses freedom of information requests and she doesn't feel it is necessary to pat yourselves on the back for following the law since it is the law and required. Clauses #7 through #14 addresses the families of the DEC but the record does not support your assertions. Specifically, in clause #7 it states the City entered in a state assist contract and it obligated the City to gather more data that would provide sufficient basis for the DEC to prepare its remedial action plan.

4. In 1998, the City indicating "after review of the revised Geneva Brownfield work plan received in this office on August 14, 1998 a number of issues and questions were found noted in a June 12th letter". They are addressed or unresolved. This situation might have been avoided if each issue or question had been addressed in a response letter and specifically noted or relevant changes to the work plan were made. In addition, she said a meeting was offered to discuss the comments but did not receive a response. She said while this lack of interaction is disconcerting by itself, it's particularly troubling in view of the consultant hours that have been tallying and the months that have elapsed between submission. We would like to move this project forward.
5. In October of 1998, Ms. Augustine said the City put together a citizen's participation plan for the cleanup of the Foundry site in which it states that it is engaging consultants that will come up with remediation recommendations, which were done in 1999, submitted to the DEC and the City in which it states, "therefore, remediation should include replacement of selected garden areas with fresh topsoil and lawn to prevent health impacts on the residents. Direct remediation of affected residential sites is advisable at this time". She added it includes a map of the soil samples that were taken that had high levels that need to be remediated.

6. She said in 2000 it was revised and sent to the DEC again – “in comparison of the samples to an Eastern US background concentration as shown in table 1, we find that concentrations of arsenic, cambium, copper, lead, mercury and zinc exceed the upper range of these US background concentrations. These results confirm the results of the 1986 DEC samples that were collected from the Gringeri property at 234 Exchange Street. Conclusion: elevated levels of metals and surface soils were detected at all residential samples that were collected for analysis. Additional data should be collected in conjunction with the DOH to determine the metal levels at depths greater than 6 inches. Based on these results, the abatement program must be prepared to address the DOH concerns”.
7. In February, 2004, the DEC sent a message to the City, “Gordon, just checking on the status of your sampling plan. If you can get us a draft soon, we would be able to finalize it and mobilize by spring”. The response from Gordon Eddington, “Jim, Sorry I didn’t notify you we were having a Foundry meeting. We are rescheduling it for February 11th. If you can make it, you are welcome to attend. I would like to apply for an extension of time”.
8. In February, 2004, the DEC writes, “The charges for the testing seem odd and excessive. Where possible, please try to obtain further detail on the work that you are billing, i.e. the legal bills. It seems the repetitive monthly charges are related to billing rather than attorney work”.
9. March, 2004 – “Gordon, As you know, the staff here at the Regional DEC have been processing your reimbursement packages and time extensions for the two Brownfield sites, as well as trying to finalize the offsite investigation work for the Foundry site. Let’s work together to move these programs forward in service of the public and the environment”.
10. November, 2004, the City sent out a letter telling residents that their property is within an area selected for sampling. O’Brien and Gere, a new engineering firm brought in after consultation with Harris Beach. The City’s attorneys will take soil samples of the exterior area. The samples will not enter any buildings or residents that are on the property. This was not new testing, as we already had the results on these properties. No one was notified of those test results and no one was given the results of those tests.
11. September, 2005 – “Gordon, given the wide range and variability of your soil samples, it seems prudent that you should exam a few yards in greater detail. This will help us interpret the data and give us reassurance that we have reached these sound conclusions. Careful observations and photos should be taken of any play areas, especially those that bare soils and gardens. Expansion of the area of concern also seems warranted, perhaps along some compass direction to try and discern any concentration trend”.
12. January, 2006 – O’Brien and Gere sent a letter to the DEC which stated per their sampling, they cannot determine a discernible pattern of impacts attributable to the former Foundry operations. Instead, she said they amended the remediation alternative to say the City should only mitigate offsite soil of 1200mg as opposed to the 400 level.

Ms. Augustine said there is back and forth correspondence for 2006, 2007, 2009, 2012 not acted upon. She said she takes issue with the previous statement that the DEC has been the hold up in the matter and that clearly the record states otherwise. She said that part of the resolution should be stricken.

She said the reference to the Rules of Order was put in place to guide the conduct of Councilors not to prohibit the free speech of the public. She added that was never the intention and it sounds as though this is nothing more than “passing the buck and circling the wagon”. She urged City Council not to vote for this.

Paul Passavant, 453 S. Main Street. Mr. Passavant as teacher of constitutional law, he is very concerned about the freedom of speech implication in the resolution. He said it was helpful that the City Manager tried to clarify that this was just a restatement from past rules and procedures, because the resolution was unclear from the text. He said the person chairing the meeting should be reasonable in ruling out of order personal insults, but Council cannot insult a government official from criticism legally because of the first amendment. In reference to 50h hearings, he said it seems that would be reasonably delayed so that potential claimants would have a reasonable amount of time in order to get new counsel if that continues to be their intention.

Jeff Henderson, 399 S. Main Street. On behalf of Co-Director, Jackie Augustine and himself, he thanked Sage Gerling, City Manager Horn, GPD, GFD, DPW, Janelle Drach and all associated staff for their support in making the Seneca 7 a success. He said their main priority in the Seneca 7 is showcasing Geneva and the Finger Lakes, letting people know why we live here, work here and love it here. He congratulated Councilors Hagerman and Valentino for successfully finishing the race. There were about 325 teams which equates to about 2,300 people here this past weekend. Unfortunately, he said there was one tragedy at one of the late exchange points and a runner suffered a heart attack and passed away. He publicly expressed condolences to Brendan Jackson and his family. He thanked North Seneca Ambulance, Geneva Hospital, Seneca County Sheriff's and the volunteers for their prompt response as well.

As no other persons of interest came forward, Mayor Alcock closed Public Comment at 8:15pm.

8. DISCUSSION REGARDING RULES OF PROCEDURE

Clr. Camera said his concern is that people don't have enough time to publicly speak. He said 3 to 5 minutes is a good guidance and he would rather see public speaking be 4 minutes instead of 3 minutes. He added he disagrees with Mr. Henderson as he feels the clock is valuable in terms of people continuing to speak without being interrupted. He said he feels it would be a shame if constituents have to stay until the end of a meeting to bring up new issues, noting it's no different than staff not having to sit through public comment. He said he would like to see public comment for agenda-related items first and then public comment for non-agenda items all at the beginning of the meeting rather than at the end, because it would make it a little more constituent friendly.

Clr. D'Amico said he would be open to adding additional speaking time. In reference to the resolution and public comment it's nothing new that this Council came up with to make new rules, but rather to clarify what the rules are. He said at the last Council meeting, things were out of control and not as respectful as it should be, noting the personal attacks did not help anyone. He said, relative to the Foundry, it's just an assessment of what's happened over a period of time and there are no misstatements in it. He said the Mayor has been pretty good about modifying extra time and hasn't been a real dictator in stopping people from speaking. He said with mutual respect, we might get to 5 or 6 minutes of speaking time.

Clr. Valentino thanked former Councilors Augustine and DiCostanzo for amending the rules and procedures in an effort to get some order and respect from Councilor to Councilor and to give everyone an opportunity to have a respectful discussion. He said it's a document that can be changed by this Council or any Council in the future and it is as simple as putting it on the agenda for a majority vote and going from there.

In terms of public comment, Clr. Camera said let's use this as a guide. He said it's an honor that the room is full tonight, because our constituents are not happy with us, but they are still coming before Council because they appreciate us and they think we can get work done.

Clr. Camera will make recommendations and forward them to the full Council for review and consideration.

9. RESOLUTION ADDRESSING PUBLIC CONCERNS RELATED TO THE GENEVA FOUNDRY AND ASSOCIATED ENVIRONMENTAL REMEDIATION

City Manager Horn presented the following resolution:

WHEREAS, the Geneva City Council has advanced the protection of our ecological environment among its core values, as identified in the City's comprehensive plan; and

WHEREAS, City Council has received numerous inquiries from residents relative to the former Geneva Foundry property; and

WHEREAS, City Council desires to provide information and respond to the inquiries, to the extent it can, given the pending Notices of Claims filed by over one hundred residents ("Claimants"), alleging damages related to the former Geneva Foundry property; and

WHEREAS, City Council timely responded to numerous Freedom of Information Law ("FOIL") requests to provide its documents related to the former Geneva Foundry property, and understands those are widely distributed to the public; and

WHEREAS, City Council encourages the residents to review all of the records to fully understand the history of the City's involvement with the former Geneva Foundry property; and

WHEREAS, in 1998, the City of Geneva took title to the former Geneva Foundry property after its operations had ceased, in order to allow the property to be investigated and remediated pursuant to the New York State's Environmental Restoration Program ("ERP"); and

WHEREAS, the City of Geneva entered into a State Assistant Contract ("SAC") with the New York State Department of Environmental Conservation ("NYSDEC") as part of the State's ERP, which obligated the City to gather the data to ***provide a sufficient basis for the NYSDEC to prepare a Proposed Remedial Action Plan ("PRAP") and present it to the public***; and

WHEREAS, the City, and its staff, completed all investigation required by NYSDEC, and provided all on-site and off-site sample results to NYSDEC upon receipt; and

WHEREAS, the NYSDEC failed to prepare the PRAP upon receipt of the data collected by the City; and

WHEREAS, the City, and its staff, complied in all respects with the ERP and the SAC, as documented by NYSDEC in its letter dated February 17, 2017; and

WHEREAS, after years of delay, NYSDEC began gathering additional samples in the properties adjacent to the former Geneva Foundry in 2015 in order to prepare the PRAP; and

WHEREAS, the NYSDEC finally issued the PRAP for the former Foundry Site and the Neighborhoods Adjacent to the Site in October 2016; and

WHEREAS, the NYSDEC provided the PRAP and underlying investigation results to the public in October 2016; and

WHEREAS, City Council remains committed to remediating the former Geneva Foundry property, as required by the Brownfield Cleanup Agreement it entered into with New York State Department of Environmental Conservation (NYSDEC) in March 2017; and

WHEREAS, City Council entered into the Brownfield Cleanup Agreement in order to facilitate the NYSDEC's remediation of the neighborhood using State funds; and

WHEREAS, City Council remains committed to continued encouragement to NYSDEC to complete the remediation of the neighborhood as quickly as practicable; and

WHEREAS, while the City has an obligation to respond to the Notices of Claim and defend itself in the event litigation against the City is commenced by Claimants alleging damages related to the former Geneva Foundry, it understands the residents' frustration with the remediation of the neighborhood; and

WHEREAS, City Council understands that many residents are unhappy with the NYSDEC's progress to remediate the neighborhood properties in a timely manner; and

WHEREAS, City Council understands that many residents have indicated that they would have liked to receive the results of the data collected on their property when it was sent to NYSDEC as required by the SAC; and

WHEREAS, City Council is aware that many residents have sought to assign blame to specific individuals of the City staff related to the former Geneva Foundry property; and

WHEREAS, City Council has heard the concerns of the residents and desires to allow residents to continue to voice concerns directly to City Council as the remediation of the Foundry and associated neighborhood continues in the upcoming years; and

WHEREAS, City Council remains committed to assisting NYSDEC in any way to allow the remediation of the neighborhood to be completed by NYSDEC as quickly as practicable; and

WHEREAS, to the extent the residents have concerns about the handling of former Geneva Foundry site, such concerns should be directed at City Council, and not specific Council Members and/or City Staff, as required by the Rules and Procedures for Geneva City Council.

NOW, THEREFORE BE IT RESOLVED, that the Geneva City Council, will place the former Geneva Foundry as the first agenda item on each Council agenda, which will involve an update on the progress of the remediation of the former Geneva Foundry site and the neighborhood; and

BE IT FURTHER RESOLVED, the City of Geneva will provide the option to property owners to receive testing results if and when the City of Geneva conducts any future sampling of any properties in the City, which will be incorporated into the Access Agreement with the property owner; and

BE IT FURTHER RESOLVED, the City of Geneva encourages residents that allow other agencies to conduct sampling of their property to require that they be provided with the results of the sampling; and

BE IT FURTHER RESOLVED, the Rules and Procedures for Geneva City Council will be available for the public at each meeting, and the relevant portions will be summarized prior to opening the public comment period by the Presiding Officer to ensure the public is aware of the process; and

BE IT FURTHER RESOLVED, the Rules and Procedures for Geneva City Council limit the time for each speaker to be three minutes, and a mechanism will be placed to ensure the speaker is aware of the time with appropriate reminders to the speaker so he or she is aware when the time limit is expiring; and

BE IT FURTHER RESOLVED, the Rules and Procedures for Geneva City Council allow a member of the public to request an exemption to the three minute time limitation, and the Presiding Officer will in his discretion provide for a longer time limit if requested in writing 24 hours before the meeting; and

BE IT FURTHER RESOLVED, the Presiding Officer will remind the public that the Rules and Procedures for Geneva City Council require that all remarks are to be addressed to the City Council as a whole and not to any individual member thereof, and the Presiding Officer will not allow the public to state personal attacks on any City Council or staff; and

BE IT FURTHER RESOLVED, the City will continue to cooperate with NYSDEC and advocate for residents and property owners to advance clean-up efforts on neighborhoods adjacent to the former Geneva Foundry and provide support through the GNRC.

RESOLVED this 3rd day of May, 2017.

ACTION TAKEN by Clr. Valentino; seconded by Clr. Gramling
MOVED THAT this resolution be approved

Clr. Valentino said he feels he should make an apology and is trying to determine to whom, and what his apology would be about. He said he moved to 42 State Street in 1983, got married in 1984 and had kids in 1985 and 1987. He said his kids rambled through the yard and gardens. In 1996 he was elected to the 5th Ward Council position and he wanted to be sure he did right by those residents. He said he continued to look for opportunities to make a difference, particularly in his ward. He said his kids played in the neighborhood and the Foundry which was not secure and was a safety hazard. He said as a Council we talked about it and we were warned that the only way we could do anything

about it was to take ownership of an eyesore – pretty big move on the City’s part. The Council at that time decided to make that move and took that ownership and between making that decision and right now, he’s twisted to understand what he did wrong. He said he was on Council multiple times throughout all of this and he thought every decision he/we made was the right one to create remediation of the Foundry and to correct the eyesore that was going on in that neighborhood. He said as he sits here at takes the beating that they did something wrong or should have done something differently – maybe, but all those decisions were made with the honesty that they were doing the right thing to create the right remediation and the right fix to the Foundry.

Clr. Gramling made the following comment:

“In speaking to Council last month as a concerned citizen my concerns were marginalized by at least one Councilor who articulated that in an email, so I will no longer recuse myself. I will use my position to speak freely as a representative, without any time constraints. With that being said, in my dissertation to Council, I spoke that we need to change our practices.

How can practices change and how can we prevent something like this from happening in the future if we refuse to accept our responsibility. Maybe it’s true that the City cares more about winning than about its citizens. Action speaks louder than words. According to document #5186p from NYS DOH, it was an obvious dereliction of duty to not inform citizens of known contamination. Furthermore, in the 1989 Foundry work plan, the state reiterated steps to be taken that hadn’t been in previous instructions given. Resolution 17 is not only a slap in the face of citizens, denying responsibility, it’s inclusive of a further perpetuation of gagging the community infringing on their constitutional right of free speech, all while they watch its representatives use their tax dollars against them. It also draws a proverbial line in the sand, and where I come from, that’s a threat. Written on that line is denial, deflection, and an insensitive encouragement for community members to forget that past while they are currently living both figuratively and effectively in it. Therefore, I cannot support this resolution as written”

Clr. Camera said he is also not going to support this resolution. He made the following comments, “It really fails the basic public relations 101. We can make most of those statements to the public but putting them in a resolution that is a big problem. When this resolution was originally put together, I had a problem with about half of it. And I expressed those problems and they are all still there. The rest of the statements are all written in legal speak that I feel is quite heavy-handed with the public. I think that the presiding officer can ask people to be respectful. I think that the factual information the City has can be delivered by the City Manager and a lot more often than once every CC meeting. So, on the surface, I think that this resolution fails at basic public relations 101 with our constituents. It places some space between us and our residents. Not cool.

The other reason that I am not going to support it is.... I have been a big defender of the City whenever we have been accused in the past about "conspiracies" etc... People come up to the podium over the last 5 or 6 years that I have been on Council and accuse the City of a conspiracy and I am the person who says: ‘No it is not we are just trying out things’: (i.e. Opus chairs and tables in alley, pocket parks, Linden St., Pulteney St. and HWS repaving, Waterloo parcel, etc...) and have championed transparency and reaching the public via expanded public comment within reason, good recordings (and more). We have to fix the microphone at the podium. This is not the first time that people have

complained about this. What I have tried to do is champion public. I am not feeling that way anymore and no longer feel comfortable making this defense of the City or completely believe it myself.

In my opinion, we should have a much shorter resolution that sounds less legal and more conversational and informal. It needs to rise to the level of human-like communication. I also believe that the main transmission of information should be handled by our chief spokesman Matt Horn and even to the point of allowing a few questions from the public to him that he can respond. He really knows all the information and he can explain all the technical issues and he is the best person to explain these matters to you and the public. Sometimes I have to ask him to explain technical items to me and he does a great job I have great confidence in him and he can do this for you.

When the draft of this document was presented, one City Councilor said that we needed to pass this resolution because we cannot address every inaccurate statement made by the public and then printed in a blog, or repeated in a video, or the newspaper. I disagree. We cannot let misinformation stand around and characterize the public conversation about the Foundry or any other issue. If a former City Councilor made a factually inaccurate statement, then the City should prove it and say so. If someone else said the clean-up would take 10 years, then we should challenge this statement and ask them to produce the schedule or evidence that says so. The 911 issue was settled with factual information. The chicken debate as well as the Foundry or the Trinity issues should be infused and discussed with the factual information front and center.

Remember what Mark Twain said: "A lie can travel halfway around the world while the truth is still putting on its shoes." Well no more. We have the ability to chase that lie down and either verify if it is a lie or change the record. That is our job and I am sorry that it is a lot of work for Matt and his staff but he can be much more nimble than City Council and once-a-month, formal resolutions. Also, in my opinion, Matt and City staff have much more credibility with the public than City Council. Let's invest in them, they have no dog in this fight. And it is not a fight. They can respond and they will be able to get the information to the public.

We are not "one." My attitude towards CC has changed over the last 15-18 months.

It started with the change in format of public comment. There was the 'Mark Perry gate' issue, Ethics Commission charges, Recreation, Planning Board, and Zoning Board unilateral removals of Chairs. And not this resolution. I am not going to sign on to this kind of stuff. I am a builder and want to see the best visions of Geneva realized. I don't want to get into this sort of infighting and win-lose thing. We have all the DRI projects and everything else. What we have to do is help Matt execute those. There is going to be a lot of positive work for us.

I am sorry that this happened.

As Matt's report indicated tonight there is a lot of information to be shared with the public. At some point, I ask the public to stop looking for people to blame, let's get on with getting things done as quickly as possible and keeping the dialogue open.

We should not be relying on the Geneva Believer web site to post all the documents. We should be doing that. We should take the lead?

The most important thing is for the City to keep the facts and the fact set front and center, repeat an update it often, and challenge every misstatement by onlookers and others and make it easier for people to review it by posting all the information on line. This proactive,

public strategy has a better chance of keeping us out of court than occasional, hard to read resolutions, etc... and not alienating our constituents.

One last thought. If the City is going to leave hard copy agendas, rules of order, etc.... for attendees to pick up at City Council meetings, then there should be enough for everybody. Let us put a stack of fifty at every City Council meeting like we mean for everyone who attends to be able to have their own copy on which they can write notes. Like we mean for all to have the information. Like we care about informing them and leaving no one out. And if there are left-overs, that is what we have recycling for. It may be more satisfying to seek blame but it is more important for us to move and get on with the job collectively together”.

Clr. Marino said she knows that Council directed this resolution and she thanked staff for putting it together. She said it is resoundingly clear that the constituents in this room tonight do not agree with this, adding as she looks around she sees many faces of supporters who supported her in 2015 with hope that she could make a positive change on City Council. She said she came tonight with the intention of voting for this resolution and she hears concerned citizens, and she is not going to vote for it”.

Clr. Hagerman said we talked about this resolution. He said we know as a body we’ve been quiet on the subject trying to figure out how to move forward on it. He said a lot of work went into putting this together and he was happy to see there were some data points to provide some resemblance of a fact sheet and that was the intent. He said he reflects Clr. Marino’s opinions as well and he moves to table this resolution.

ACTION TAKEN by Clr. Hagerman; second by Clr. Camera

MOVED THAT **this resolution be tabled**

ROLL CALL: Aye – Clr. Hagerman, Clr. Gramling, Clr. Valentino,
Clr. D’Amico, Clr. Marino, Clr. Eddington,
Mayor Alcock

Nay – Clr. Camera

Absent – Clr. Greco

MOTION CARRIED (7-1, 1 absent)

10. ORDINANCE AMENDING CHAPTER 300 OF THE GENEVA MUNICIPAL CODE – SOLID WASTE HAULERS, 2ND READING

City Manager Horn presented the following ordinance:

WHEREAS, the Geneva Comprehensive Plan has identified environmental stewardship, sense of community, and a strong economy as core values in addressing our community vision; and

WHEREAS, the City’s residential and commercial solid waste are currently collected by a series of waste haulers, in conjunction with licenses issued under Chapter 300 of the Geneva Municipal Code; and

WHEREAS, the Geneva Green Committee has conducted an extensive review of the licensure requirements and procedures, and finds opportunities to enhance the natural environment, sense of community, and economic strength of the City through changes to the licensure policies and procedures; and

WHEREAS, the natural environment can be strengthened via more clear and explicit expectations relative to landfill diversion of recyclable materials and education of residents on the value of recycling; and

WHEREAS, community character can be enhanced through the refinement of collection days and hours to ensure that collection is orderly and occurring during appropriate hours; and

WHEREAS, the City's financial position can be strengthened through the appropriate pricing of licensure and expanded insurance requirements; offsetting risk to the City of issues arising from collection operations; and

WHEREAS, the Committee has recommended such changes to the ordinance as attached.

NOW, THEREFORE BE IT RESOLVED that the Geneva City Council, hereby and in due form, does amend Chapter 300 of the Geneva Municipal Code, as follows:

Section 300-7 Amended to Read:

The City of Geneva shall license up to four (4) solid waste haulers for collection of waste in the City. Licenses issued pursuant to this chapter shall be for a period of one year or less, subject, however, to the revocation thereof as provided herein. For haulers holding a valid license as of the date of ratification of this ordinance, an annual fee of .25% of gross receipts from the previous year's operations, or \$1,000, whichever is more shall be paid prior to issuance of license. In the event that there are fewer than four licensees, City Council shall set the minimum fee, and advertise a competitive bid for any remaining licenses. The highest qualified bidder(s), as determined by City Council, shall be awarded a license for the amount of their bid. Licensees shall retain the right to renew their license annually unless the license is revoked by City Council, or they discontinue operations in the City for a period greater than 60 days.

Upon the payment of the initial fee as herein provided, which may occur after January 1, the City Clerk shall issue a license to the applicant for the remaining period of the calendar year, and shall also issue a nontransferable plate or sticker which shall be affixed to a conspicuous and indispensable part of each and every such truck. The official number of such license, together with the words "City of Geneva Licensed Refuse Collector" shall be clearly set forth on each plate or sticker. The fee for any license issued on or after July 1 in any year shall be 1/2 of the above-mentioned rate. The renewal fee shall be payable on or before January 1 of each year.

Section 300-8 Retitled as "Insurance" and Amended to Read:

The licensee shall hold harmless the City of Geneva, its officers and employees, and shall indemnify the City of Geneva, its officers and employees for any claims for damage to property or injury to persons which may maintain such public liability, food products liability, and property damage insurance as will protect licensee, property owners, and City from all claims for damage to property or bodily injury, including death, which may arise from operations under the license or in connection therewith. Such insurance shall provide general liability coverage with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the City of Geneva. Such policy shall not terminate or be canceled prior to the completion of the contract, without like insurance in place prior to

cancellation or termination. Any lapse in coverage will result in immediate suspension of the license, pending proof of current insurance. Proof of insurance shall be provided with application.

Section 300-9(e) Amended to Read:

Residential curbside collection operations in the City of Geneva are permitted between the hours of 6 a.m. and 6 p.m.; Monday through Thursday. Haulers who exclusively offer “pay as you throw” collection may operate any time during these days and hours. All other haulers are required to specify a specific day of the week for general hauling operations. Special pick-ups are excluded from this single day allocation. Starting Jan 1, 2019, residential curbside collection operations in the City of Geneva will be reduced to three days per week; Tuesday through Thursday. Commercial collection service is permitted Monday through Saturday, from 5 a.m. to 8 p.m.

Section 300-9(f) Amended to Read:

Any changes in ownership, in an individual officer, stockholders or directors of a corporation, where the license is not affected must be reported to the City Clerk within five days. Said changes must be approved by the City Clerk.

Section 300-9(g) Amended to Read:

Without specific written authorization by the City Manager, all residential and commercial collections must be deposited by permit at the Ontario County Landfill.

Section 300-9(h) Amended to Read:

Licensees shall not mix any dangerous, harmful or deleterious substances with ordinary ashes, rubbish or trash and shall be responsible for separating any such substances from their loads prior to trucking ashes, rubbish or trash outside the City limits.

Section 300-9(i) Amended to Read:

Licensees shall arrange their loads to the fullest extent possible so that such loads are acceptable for disposal in the Ontario County Landfill Site by any authority having jurisdiction over such site.

Section 300-9(j) Amended to Read:

Licensees shall certify that they have reviewed and will maintain compliance with all local, state, and federal laws regarding solid waste management, explicitly stating review and compliance with this Chapter, the New York State Solid Waste Management Act, General Municipal Law 120-aa, and any other law deemed appropriate by the Authority Having Jurisdiction (AHJ).

Section 300-9(k) Amended to Read:

All licensees must submit a dated fee schedule, which will be posted to the City’s website. Any change to the fee schedule must be submitted to the City Clerk prior taking effect.

Section 300-9(l) Amended to Read:

All licensees must provide customers with a clearly labeled recycling container. For any recycling container issued to customers prior to December 31, 2018, the City of Geneva will provide haulers with a decal to affix to the container. Effective January 1, 2019, all customers will be issued a clearly labeled recycling toter with a minimum size of 32 gallons. Licensees must publish at least one educational piece each year, advising residential customers of materials that may be recycled, a copy of which will be mailed to the City Clerk.

Section 300-9(m) Amended to Read:

Violation of any of the foregoing regulations or any other provision of this chapter shall be cause for revocation of the license of any collector holding a license hereunder. The Authority Having Jurisdiction (AHJ) shall have power to revoke any such license for cause shown after public hearing thereon at which the licensee shall have an opportunity to be heard on 10 days' written notice to the licensee, specifying the nature of the violation, the complaint of said violation being in writing and signed by the complainant.

This ordinance to become effective upon two readings.

RESOLVED this 1st day of March, 2017.

FIRST READING: March 1, 2017

SECOND READING: May 3, 2017

City Manager Horn said the Geneva Green Committee completed its review of the City's solid waste haulers regulation, and he thanked the committee for doing such an extensive job on this. He noted this ordinance has not been updated in 20+ years. These regulations manage the collection of garbage and other material from businesses and residents throughout the City. Haulers are required to obtain a license annually from the City which governs their collection activity.

ACTION TAKEN by Clr. Hagerman; seconded by Clr. Camera
MOVED THAT this ordinance be approved for second reading
and adoption

Clr. Valentino said his observations in the 3rd Ward are that there are no issues, so why make any changes. He compliments Clr. Camera's and the Green Committees efforts, so he is going to go along with the recommendations. He added the largest shout out that he has heard about this ordinance is the 6:00am pick-up time and wondered if it could be possible moving that to 7:00am. City Manager Horn said the committee originally put forth a proposal to move it to 7:00am; however, in their meeting with the haulers they expressed their requirement to get to the landfill by a certain time and 7:00am would conflict with increased traffic activity on the streets, indicating the earlier they start the faster they get done.

Clr. Hagerman said he has also heard the same concerns about the time for many years and that haulers were starting as early as 5:00am or earlier. As far as commercial restraint time of Monday through Saturday, 5:00am to 8:00pm, he asked if commercial time could be pushed back to 6:00am, because the complaints he hears are from pick-ups in commercial areas that are located in residential areas. Clr. Hagerman said he opposes the 5:00am start time for a commercial pick-up time.

Clr. D'Amico said the County talked about sharing some money that went strictly to the Town of Seneca with other municipalities in an effort to modify how they pick up trash. He asked if there is any money for these companies if they need to purchase additional receptacles. City Manager Horn said it is his understanding that the County has not finalized their guidelines and those grants are to be made to municipalities to further diversion efforts.

Clr. Camera said 2016 and 2017 years, the County will provide \$73,000 but we have to make applications for it and it has to be in one of eleven categories to help us implement this program, noting it's in draft form right now. He added in 2018 the County is projecting access up to \$44,000 to help deal with our solid waste problems. Clr. D'Amico said he is not in favor of publishing rates, because it would hurt the smaller haulers and is opposed to eliminating a fourth day. He said having a hauler have to accelerate their equipment and the people that work for them creates an additional expense. He said this additional expense would eventually be passed along to the people that are having their trash picked up. He said he appreciates the Green Committee's work on this but it wasn't something the City Council asked them to create and now we're reacting to it. He said he does not want to impose any hardship on any small business. He said he would like to be friendlier to the people that are in small business and doesn't want to be a Councilor that imposes unfair rules to businesses that have been in the City for a long time.

ACTION TAKEN by Clr. D'Amico; seconded by Clr. Valentino
MOVED THAT this ordinance be amended so that trash rates are not published, there is pick-up on Monday through Thursday and the fee is increased from \$200 to \$500 be approved

As far as publishing rates, he said the County is asking haulers to do that, so Clr. Hagerman said he doesn't see how that is an issue. Clr. Hagerman said he does not support the amendments.

Clr. Eddington said he is opposed to limiting it to three days as well. He said he is concerned with public safety and safety vehicles being able to respond to an emergency immediately. He said he will support Clr. D'Amico's amendments.

Mayor Alcock said he has always been against this ordinance, because he thinks it is very unfair to the smaller hauler and if we put extra burdens and way too many restrictions on them, they won't be able to continue their work. He said he is concerned with price increases that might be associated with that.

Clr. Camera said the committee went back and forth regarding publishing rates. He said the County is encouraging us to do "pay as you go" and if we don't do that we might not get access to some of that money. He said we're trying to change the way solid waste is done. He said one of things people have said is that there are too many trash days in the City. He said the idea of eventually going to three days a year is not until 2019, which gives haulers time to adjust. In terms of the fees, he said he would be willing to support the \$500 and he feels publishing the rates is important.

Clr. Gramling said he likes the "pay as you go" and if the rates were published, it means there's competition. He said he would also support the \$500 fee.

Clr. D'Amico said he would like to enhance the amendment by the haulers talking to the people that are in business picking up trash, so they can contribute and modify how they do business by sitting down and trying to settle it. He added that would not affect the amendment.

Clr. Marino said the feedback she received was related to the 3 to 4-day issue but she agrees with the posting of the rates and the healthy competition part. She said she would support the resolution with an amendment and a drop in the annual fee.

ROLL CALL: Aye – D'Amico, Clr. Marino, Clr. Eddington
Nay – Clr. Hagerman, Clr. Camera, Clr. Gramling,
Clr. Valentino, Mayor Alcock
Absent – Clr. Greco

MOTION DEFEATED (5-3, 1 absent)

Clr. Camera said he would like to encourage the haulers as we deploy this to give us feedback and let us know and he thinks Council will address the issue.

ACTION TAKEN by Clr. Hagerman; seconded by Clr. Camera
MOVED THAT the original ordinance be approved
ROLL CALL: Aye – Clr. Hagerman, Clr. Gramling, Clr. Valentino,
Clr. Marino, Clr. Camera
Nay – Clr. D'Amico, Clr. Eddington, Mayor Alcock
Absent – Clr. Greco

MOTION CARRIED (5-3, 1 absent)

11. DISCUSSION REGARDING ORDINANCE AMENDMENT RELATIVE TO KEEPING OF HENS

City Manager Horn said earlier this spring, City Council asked staff to conduct some outreach on the proposal to amend our ordinance on hen keeping in the City. Originally, he said it was proposed at the podium in public comment and Clr. Camera encouraged staff to continue working on it. He said the current regulation states that there are only two zones, Agricultural Residential Use and Mixed Industrial Use – where the statute defines as an animal, which includes a chicken or hen can be kept and requires a distance of 200ft. from the nearest building that is “customarily used or occupied by human beings”, except the owners home and lays out rules that pertain to each district inside the zoning laws.

He said there are several ordinances that would need to be amended including Chapter 77 which is the keeping of animals' ordinance and the zoning text for each district. He said the Planning Board and several residential groups have reviewed the proposal and provided feedback.

He said the Planning Board reviewed it and determine the setback requirements need to be further discussed. The neighborhood leaders took in the information and we don't have a formal report back from them yet.

City Manager Horn said staff is looking for direction from Council whether staff should pursue an ordinance amendment with the proposal put forth today or with modifications.

Clr. Eddington said he asked Rhonda to put out a blast regarding hen keeping and he has received nothing but negative feedback from residents he will not support hen keeping throughout the City. Mayor Alcock said he has not had any positive feedback either, but has received lots of calls opposing it. He said Council has discussed hen keeping more than we've discussed ways to increase revenues. He added he is disappointed that this keeps appearing on the agenda. Clr. Valentino said he thinks it will keep coming back until it passes. He said he personally is not against it, but he has not heard positive comments for it. He said he has had comments from the older generation and that is they had them when they were growing up and neighbors had them but they don't want them now. On the other hand, he said he has heard from a constituent who said they are very happy being members of the Co-op but doesn't want it to pass.

City Manager Horn said the ordinance today prohibits roosters, geese, turkeys or predatory birds. The proposed ordinance prohibits roosters, geese, turkeys or predatory birds in residential areas but only prohibits predatory birds in non-residential areas as written.

Clr. D'Amico said he has three neighbors and all three are members of the Co-op and one person said he is content with being able to go there and be a part of it, but he doesn't want to see them in his neighbor's yard. He said he is not in favor of them and he does not want to see them all over the City, adding he doesn't want to keep talking about it over and over again. He said Mr. Henderson withdrew his request and against his request, we brought it back to Council. City Manager Horn said City Council directed staff to take it to the Planning Board and to do public outreach after Mr. Henderson withdrew his request.

Clr. Gramling said he has heard only two negative comments, but overall people are in favor of it and he will support it. Clr. Hagerman said he recalls Mr. Henderson withdrawing his request out of frustration. He said he knows there are a remote few that are adamant and do not want to see chickens in the City, but there are just as many that don't see it as an issue. He said he doesn't believe we'll see hens all over the City at all and believes in most situations, people are looking for a small number of birds, noting he doesn't see a problem with them. He said any city that sees itself as being progressive and moving forward, all have this ordinance. He said there are people in his ward that are upset with him because he believes in this, but he will support this. He said is about allowing people the right to do what they want to on their own property.

Clr. Camera said he also took a poll and about two-thirds of the people were indifferent and the other one-third was vehemently opposed and there were others that would love to see it as long as there are rules. He said we need to look at the facts – they're not noisy, they're not messy, there's no smell. He said under the proposed ordinance, you have to clean up after your chickens or you lose your license to have them. He said progressive communities like Canandaigua and Ithaca have this ordinance in place. He said we are the food capital of the northern Finger Lakes (farm to table). He said this is going to make us money. He added he knows some families moved to Geneva for a variety of reasons and some did not choose Geneva, but it had nothing to do with whether chickens were allowed. He said there is a large segment of our population where keeping chickens are a part of their culture and they know how to raise and take care of them and we shouldn't disenfranchise them by just saying you strongly oppose chickens. He said he thinks Council needs to take responsibility here, because the facts are on the side of a well-regulated chicken amenity in the City of Geneva.

Clr. Marino said she has not received a lot of feedback from residents in Ward 1. She said she agrees with Clr. Camera and the facts speak for themselves and she doesn't want to limit people's rights. She said she would vote in favor of having chickens.

Clr. Eddington, Clr. D'Amico, Clr. Valentino and Mayor Alcock are all on the side of not moving this ordinance forward. City Manager Horn said a 4:4 vote under the existing rules and procedure, only the above-referenced people can bring this ordinance back to the table for discussion. Council will not pursue an ordinance amendment at this time.

12. DISCUSSION REGARDING BOARDS/COMMISSIONS APPOINTMENT PROCESS

Clr. Valentino said his intention for having this discussion is to have this Council agree on a process. He said he likes the changes to boards/commissions appointments by taking it out of the political parties' hands as far as them presenting names to this Council for approval. He said we were in a great position where we got a lot of influx of interested position for boards/commissions. He said he walked away with the impression that Councilors were going to work with boards/commissions as liaison members to help the interview process – not to lead the interview process and not to be the decision makers in the interview process and not be left up to one person, but rather a joint effort. He said he is looking for this Council to come to a consensus on how to move forward.

Clr. Gramling said he agrees. He said currently the Historic district has two openings and there are three others who have expressed interest and he's looking for clarity moving forward as well. Clr. Camera said he agrees with Clr. Valentino that the interview process be broader than what we have, including existing members and Councilors that will help make a decision. He said we need people that are familiar with the rules, training and attendance.

Clr. D'Amico said as far as the Planning Board, attendance and training is being tracked and he feels the process has improved as to how we appoint people. He said he is okay with setting up interviews in December with interested candidates and any Councilor that is available may attend. He said he is not okay with people that currently sit on boards/commission have a say in who is appointed when they may have a political appointment, friend or an a like thinker. He added it does not make sense to have a sitting member of the board make a decision on who should be a member, indicating Council should make the final decision. Clr. D'Amico said we want people to sit on these boards that have some sort of expertise/knowledge/passion in what we want as a Council and not make decisions that go against what we are promoting.

Clr. Valentino said he agrees the process has improved, but we're also trying to improve the effectiveness of the boards and not allowing a simple repeat of a term by a simple raise of a hand, stating anyone that wants to be reappointed, must go through an interview process. He said he has found it to be very effective that sitting members of a committee join in on the interview, along with Councilor(s) to engage in a dialogue about the benefits, the contributions and diversification. He said it is important that members are involved and if you don't have good solid reasons for an appointment, it will fall short during that conversation. Clr. Camera said he's not sure that term limits are necessary on boards because people learn more and more and get better as time passes. Clr. Gramling said it is important that this new process negate the political aspect of it.

Clr. Valentino said moving forward, any committee that he is a liaison to he will be sure to include boards/commissions members in the interview process. Clr. Eddington said he likes term limits and having multiple Councilors sit it on the interviews. He said it is no longer difficult to get interested people willing to serve on these boards/commissions.

City Manager Horn will summarize Council discussion and bring back recommendations to City Council for review.

13. RATIFICATION OF PUBLIC ART COMMITTEE RECOMMENDATION REGARDING LAKEFRONT SHADE STRUCTURES

Sage Gerling said the last element of the Access Improvements for Seneca Lake Phase II and III and the last element is a shade structure in the new plaza area at the end of E. Castle Street. She said the Public Arts Committee received 24 proposals and the committee narrowed it down to 3 and the Bubble Canopies by Gradient Architecture was favored.

Sage Gerling received an affirmative head nod of all Councilors present to move forward with design development. Construction is scheduled for late summer/early fall.

14. RESOLUTION ESTABLISHING PUBLIC HEARING – FEEDBACK ON CDBG PROGRAM IMPLEMENTATION

City Manager Horn presented the following resolution:

WHEREAS, in compliance with 24 CFR 570.486 and the NYS Homes and Community Renewal's Citizen Participation Plan, City Council is required to hold a public hearing during the implementation of Community Development Block Grant (CDBG) projects to report accomplishments; and

WHEREAS, the public hearing will be for the following CDBG projects: Microenterprise Assistance Programs in 2015 and 2016; Otago Real Foods Economic Development Project; CCMI, Inc. Small Business Development Project; and Cemetery Creek Flood Management Planning Project; and

NOW, THEREFORE, BE IT RESOLVED that the Geneva City Council, hereby and in due form, does schedule a public hearing to receive comments on the implementation of Community Development Block Grant projects **and solicit input for 2017 CDBG eligible projects**; said hearing to be scheduled for the regular Council meeting at 7 p.m. on June 7, 2017.

RESOLVED this 3rd day of May, 2017

City Manager Horn said the public hearing will include the following projects:

- Microenterprise Assistance Programs in 2015 and 2016
- OTAGO Real Foods Economic development Project
- CCMI, Inc. Small Business Development Project
- Cemetery Creek Flood Management Planning Project

City Manager Horn said we also want to receive feedback from people on upcoming applications for CDBG funds, so we're asking City Council to pass a resolution in its

current form with ***an amendment to state that we will also be soliciting input for 2017 CDBG eligible projects.***

ACTION TAKEN by Clr. Valentino; seconded by Clr. Eddington
MOVED THAT this resolution be approved
MOTION CARRIED

15. RESOLUTION AUTHORIZING LABOR AGREEMENT - FIREFIGHTERS

City Manager Horn presented the following resolution:

WHEREAS, the City Manager has been negotiating with the Geneva Firefighters with respect to the 2017-2019 contract pursuant to the Taylor Law, and

WHEREAS, the City Manager is now recommending that the City Council adopt a three (3) year contract for the Geneva Firefighters, the following are the areas of proposed modifications:

- Length of contract
- Section 3(a),(b),(e)- Salary
- Section 5- Retirement-In Lieu of Sick Leave
- Section 6- Health Insurance
- Section 8- Vacation Schedule
- Section 12- Working Schedule & Hours
- Section 13- Uniform Allowance
- Section 19- Time Schedule for Negotiations
- Section 20- Mandatory Training and Educational Incentive
- Section 28-Jury Duty

WHEREAS, all terms and conditions are referenced in Attachment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Geneva, New York, that the above terms be and the same hereby are adopted for the 2017-2019 contract with the Geneva Firefighters Local 2859.

RESOLVED this 3rd day of May, 2017

City Manager Horn said the Firefighters Agreement expired at the close of 2016. He said overall they are pleased with the negotiations. The Firefighters union represents 18 career Firefighters at the Geneva Fire Department. He highlighted the above-referenced proposals and terms and conditions – attached.



All terms are effective January 1, 2017, except as noted. All other terms and conditions remain the same as in the year 2014-2016 contract.

Terms of Agreement: This agreement covers the period January 1, 2017 to December 31, 2019. This agreement is subject to ratification of the City Council and the Geneva Firefighters.

Article 2 Salaries to read:

Three (3) year contract with salaries noted below:

- a.
- Effective January 1, 2017: 2%
- Effective January 1, 2018: 2%
- Effective January 1, 2019: 2%

Non-Compounding enhancement for all FF, regardless of step:

\$1500.00 for 2017, 2018 & 2019

New Hire (Date of Council Ratification & after): Anniversary Date

	<u>2017</u>	<u>2018</u>	<u>2019</u>
Starting Rate *	52,093	52,614	52,877
FF trainee-per f			
after 18 months	54,698	55,245	55,521
after 2 years	57,433	58,007	58,297
after 3 years	60,304	60,907	61,212
after 4 years	63,319	63,953	64,272
after 5 years	66,485	67,150	67,486
after 6 years	68,182	68,863	69,208

- b. Payment of MFI will be November of each contract year. 2017-payroll after ratification will not include the bi-weekly amount for this and remainder will be paid in full in November, consistent with other training and education incentives. Payment in full for retirement and if start anytime during the year in this capacity.
- e. Payment of SCBA will be November of each contract year. 2017-payroll after ratification will not include the bi-weekly amount for this and remainder will be paid in full in November, consistent with other training and education incentives. Payment in full for retirement and if start anytime during the year in this capacity.

City Manager's Office

27 vs. 26 Payroll Issue:

2017-1 day
2018- 1 day
2019- 0 days

Section 5-Retirement: In lieu of Sick Leave:

Change language to read: remove word "estate" and add word "primary beneficiary".

Section 6 - Health Insurance:

HRA-There will be no funding of this benefit until a new contract is ratified for 1/1/2020.

Section 8- Vacation : Add MOA language. Reopener to discuss changes to vacation schedule for clarification

Section 12-Working Schedule & Hours:

City agreed to remove language in first paragraph: "or other issues & etc." all other language remains the same as in current contract

Switching Days- revise language to read-notification to Fire Chief-removal of word "approval"

Worker's Compensation- remove current language and replace with while covering for a FF out on worker's compensation the FF covering the shifts for the injured and/or ill FF will receive additional 0.25/hour to hourly rate per FF out.

Light Duty Procedure-new proposed 207-a language—proposed language for 207-a policy distributed 7/27/16 for your review & comments Duty Related Injury: remove language and refer to new 207-a policy and GML 207-a. policy in place after council ratification

Section 13-Uniform Allowance: \$800.00 paid out each contract year in January (2018 & 2019). 2017 next payroll after ratification, the remaining balance will be paid out in full. Reopener to discuss list of items to comply with OSHA standards regarding reasonable life expectancy for term of this contract. See attached language for list of uniform items that become part of this section.

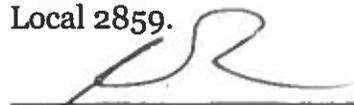
Section 19-Time Schedule for Negotiations: Update based on new terms of contract— May 20, 2019 and June 3, 2019

Section 20-Mandatory Training and Education Incentive:

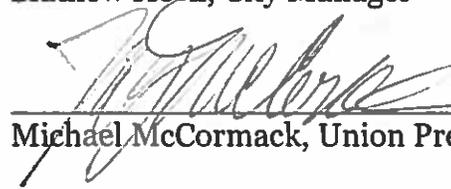
Firefighters will be reimbursed, upon successful completion of course for tuition, books, lab fees, mileage and all associated costs to become, or recertify as an EMT or Paramedic.

Section 28-Jury Duty-remove paragraph pertaining to performance evaluations

Tentatively agreed to, subject to ratification for the City Council and Geneva Firefighters Association, Local 2859.



Mathew Horn, City Manager 4-26-17
Date



Michael McCormack, Union President 4-26-17
Date

Firefighter Uniform Allowance: (add language to current contract language)

Upon hiring the City will provide new firefighters with the following brand new clothing items:

- Uniform Shirts with department patch-4
- Uniform pants-4
- Set of coveralls with department patch-1
- Package of 3 pairs of black socks-1
- Uniform t-shirts-4
- Navy blue job shirt-1
- Black uniform jacket-1
- Black winter gloves-1
- Black belt-1
- Set of Twin bed sheets with pillow case-1 (FF has to provide own pillow & blanket)
- Pair of plain black dress shoes OR duty boots
- 1 Uniform shirt & 1 coat badge
- Class A uniform to include-duty hat, coat and pants(FF has to provide own white dress shirt, tie & gloves)

Note-this list above is to be maintained and replaced as needed through regular wear and tear by the firefighter's clothing allowance

Upon hiring the City will provide new firefighters with the following brand new equipment items:

- FF helmet-1
- FF turnout coat-1
- FF bunker pants-1
- FF gloves-1
- FF bunker rubber boots-1
- FF suspenders-1
- FF nomex hood-1
- CPR pocket mask-1
- Reflective vest-1
- Radio with Portable radio strap-1

This equipment is to be maintained and in good working order as part of the normal course of duty by the Firefighter. City-issued equipment is not to be used in the course of duty for any volunteer activities, whether in or out of the City. The Fire Chief will establish a standard replacement schedule for each piece of equipment, and said equipment will be replaced on that schedule. Should equipment be damaged beyond serviceable condition, a report will be filed immediately with the Fire Chief. If it is determined that the equipment was damaged in the course of on-duty work for the City of Geneva, and that such damage was not caused by negligence on behalf of the Firefighter, the

City will replace at City expense within 30 days of reporting to Fire Chief. If negligence is determined, or if damage occurred outside of the normal course of duty, the equipment will be replaced by the Firefighter within 30 days. Failure to replace the equipment will result in the City issuing a new piece of equipment, and a payroll deduction established for cost recovery. All City Equipment will be handed back in to the Fire Chief at time of retirement.

**GENEVA FIREFIGHTERS
SECTION 207 POLICY FRAMEWORK**

Section 1: INTENT

The intent of this policy is to establish procedures for administration of benefits under Section 207 of the New York General Municipal Law.

Section 2: NOTICE OF DISABILITY/NEED FOR TREATMENT

- Firefighters intending to make a claim for benefits must do so within ten days of an original injury, or reinjury by written notice to the Fire Chief (GWC-5)
- As part of notice, Firefighter shall provide City with written authorization to acquire all medical records necessary to assess claim (policy to include form)
- If Firefighter is personally unable to notify City, a representative may be empowered to do so
- Failure to meet time requirement is a presumptive default of policy procedure. Case may move forward at City's discretion

Section 3: STATUS PENDING DETERMINATION OF ELIGIBILITY

Firefighter shall be placed on paid leave, with all contract benefits accrued and payable, until a preliminary determination of Section 207 eligibility is made by the City.

Section 4: BENEFIT DETERMINATION

- The City shall review all documents, conduct any necessary investigations, and make a preliminary determination of eligibility within 15 working days of receipt of necessary information. Final determination shall be made by the City Manager
- Firefighter shall comply with any request for additional information by the City, including requests for further medical examination at the City's expense. Failure to comply with any request is a presumptive default of policy procedure. Case may move forward at City's discretion.
- The City shall make the determination, in writing, to the Firefighter.

Section 5: LIGHT DUTY

- Light duty, consistent with status as a Firefighter, may be assigned by the Chief.
- If Firefighter feels they are unable to perform assigned light duty, a medical evaluation may be put forward. The City may also request an evaluation (at City expense). If City and Firefighter's physician disagree, certain segments of the duties will be eliminated until a third doctor chosen jointly by the City and Firefighter's physicians can be consulted to resolve the disagreement.
- Light duty work assignment and term of assignment is at the sole discretion of the Chief.

Section 6: TERMINATION OF BENEFITS

- Salary payments provided under this policy will terminate upon determination as spelled out in this policy, or upon retirement of Firefighter.
- The City shall not unilaterally discontinue benefits under this policy unless the Firefighter's treating physician determines the Firefighter is cleared to return to duty and the Firefighter refuses. Outside of this circumstance, the City must use the Dispute Resolution procedure noted in Section 7 to terminate benefits without Firefighter consent.
- Benefits shall also be terminated if the Firefighter engages in any work activities, regardless of whether the Firefighter is paid, while receiving Section 207 benefits. Such prohibition on outside work shall not apply to income earned passively, such as through investments or ownership of rental property (with the caveat that work done on a rental property owned by an Firefighter by that Firefighter while receiving Section 207 benefits will result in termination of such benefits).

Section 7: DISPUTE RESOLUTION

- Should the City determine that the Firefighter is ineligible for Section 207 benefits, the City seek to discontinue Section 207 benefits, or the Firefighter disputes his ability to perform light duty assigned by the Chief, the matter shall move to arbitration.
- Firefighter has seven days to challenge any arbitable determination.
- Arbitrator shall be appointed and hearings conducted under the rules of the Public Employees Relations Board. Either side may have a record made of the hearing. If a record is made by one side, and a copy is sought by the other, the other side shall pay one-half of the original cost of the record.
- Hearing shall occur within 60 days of appointment of an arbitrator and determination shall be issued within 30 days of the close of arguments. The sole issue shall be whether the City's determination was supported by substantial evidence.
- Arbitrator's decision shall be binding upon the City and the Firefighter.
- Cost of arbitration shall be borne equally by the City and the Firefighter.

Section 8: DISABILITY RETIREMENT

- The City may at any time file an application on behalf of the Firefighter for disability retirement under the New York State Retirement and Social Security Law.
- Firefighter shall comply with all requests for medical records and evaluations.

Section 9: CONTINUATION OF CONTRACT BENEFITS

- On determination of benefit eligibility, Firefighter shall be entitled to all benefits payable under the existing contract for a period of six months. If the combination of benefit eligibility time and time worked during a calendar year equals six months or greater, the Firefighter shall receive the full value of any stipend or other payable. If the combination of benefit eligibility time and

time worked during a calendar year equals six months or less, the Firefighter shall be entitled to a pro rata share of all stipends and other payables.

- At the conclusion of the benefit eligibility period (six months), the Firefighter will continue to receive base pay only (no non-base salary benefits or other benefits, including accrual of time off, will accrue).
- In order to continue to receive benefit payments, Firefighter must meet in person with assigned Chief once each 30 days. In absence of physical inability to travel, this meeting will take place at the Department Headquarters.
- Firefighter shall not accept any off-duty assignment (outside employment) during benefit period.

Section 10: EXCLUSIVITY OF PROCEDURE

This policy shall be the sole, exclusive procedure for determining eligibility and process for payment of benefits under Section 207. No issue under this policy may be grieved or challenged except under the policy's prescribed Dispute Resolution process.

In the drug testing policy, Clr. Valentino asked who the medical review officer is should a Firefighter be tested positive. City Manager Horn said the City has a contract relationship with a testing center and they have a doctor who heads up the testing for us. When Clr. Valentino asked what latitude is offered for employees needing rehabilitation should their test results be positive. City Manager Horn said there is a phase in period where we will announce we are implementing a testing program and give employees 60 days to come forward and admit they have an illegal substance problem. He said at that point, there is no negative consequence to the Firefighter, and staff would run them through counseling and then subject them to a testing regime thereafter to make sure they remain healthy. From there, he said if they test positive then we would have to go through the Civil Service process for disciplinary procedures and the latitude to seek anything up to termination.

Clr. Camera expressed concern about the 60-day time frame for coming forward opposed to 30 days, as he feels it gives Firefighters a chance to beat the test and come clean. Clr. Camera said he is having trouble with Section 12 where a full-time work force consists of 18 Firefighters. He questioned why the Police Department does not have the same numbers. City Manager Horn said for the Fire Department, there is an operational policy that dictates when trucks will go out and they must maintain a readiness position at all times. He added under the current deployment 18 Firefighters is needed. Clr. Camera said he is opposed to this because he doesn't feel the Firefighters are any more important than the Police Officers. Although he realizes the Firefighters do specialized work, Clr. Camera said if the community doesn't grow and you don't get any more money, then City will not save money. He said he is voting against the 3.3% increase, the current number of Firefighters and the fact that we're not treating our Police Officers as just as important as the Firefighters.

City Manager Horn said he has nine departments and all of them are just as important as the rest of them, but they all operate differently. He added he doesn't want to give the impression that because one department has an operational guideline in it that that somehow makes that department in our eyes more important than another.

Clr. D'Amico said he is going to vote in favor of this contract, but he doesn't think there is an adequate comparison of Fire and Police based on a few things that City Manager Horn said. He added there has to be a certain number of people on duty to be able to disperse trucks for potential fires, noting volunteers don't drive. He said we are lucky to have what we have.

When Clr. Camera ask if the concept of operations in the current agreement is the one that was developed 15 or 20 years ago, City Manager Horn said it has been for as long as they've had four trucks. He said the approach he would suggest to Council who were interested in relieving themselves of the 18 man clause would be that we develop an alternative concept of operations first and then come back into union negotiations with a different number of Firefighters, noting this is something that will take some time. Clr. Camera said he thinks that is good advice and we should have an operational review that should be taken during the course of this contract that looks at other practices, noting he is not in favor of contracting our fire services to other entities. He added he is for a leaner operational scheme – one that reflects today's situation and the fact that the City is giving Firefighters special treatment compared to the Police. A Policeman's job is getting more and more complex all the time.

ACTION TAKEN by Clr. Eddington; seconded by Clr. Hagerman
MOVED THAT this resolution be approved
ROLL CALL: Aye – Clr. Eddington, Clr. Gramling, Clr. Valentino,
 Clr. D’Amico, Clr. Marino, Clr. Hagerman,
 Mayor Alcock
 Nay – Clr. Camera
 Absent – Clr. Greco
MOTION CARRIED (7-1, 1 absent)

16. RESOLUTION UPDATING STREET INVENTORY

City Manager Horn presented the following resolution:

WHEREAS, the Department of Public Works maintains an inventory of all City-owned alleys, roads and streets; and

WHEREAS, the inventory provides a resource for a number of operations, maintenance and capital improvement planning needs; and

WHEREAS, in order to effectively address operational concerns, the inventory must be maintained accurately; and

WHEREAS, a recent review of the inventory found several omissions.

NOW, THEREFORE BE IT RESOLVED that the Geneva City Council, hereby and in due form, does direct the Superintendent of Streets and Highways to update the City’s Street Inventory to include East Castle Street from Routes 5 and 20 to its terminus and Cherry Street from Lewis Street to Merrill Place.

RESOLVED this 3rd day of May, 2017.

When Clr. Gramling asked if S. Main Street Extension is part of this inventory, City Manager Horn said he received a letter from a constituent and have asked DPW staff to make recommendations for that street condition.

ACTION TAKEN by Clr. Valentino; seconded by Clr. Hagerman
MOVED THAT this resolution be approved
MOTION CARRIED

17. RESOLUTION ESTABLISHING PUBLIC HEARING – SALE OF 121 NORTH GENESEE STREET

City Manager Horn presented the following resolution:

WHEREAS, the City of Geneva owns real property located at 121 North Genesee Street; and

WHEREAS, the Geneva City Council has deemed that the property no longer serves a public purpose and should be sold to a private party; and

WHEREAS, staff is soliciting private interest in this property; and

WHEREAS, if a proposal is determined to be in the best interest of Geneva residents, City Council anticipates a sale of the property.

NOW, THEREFORE BE IT RESOLVED, that a public hearing for the sale of the above referenced property be held at the regular City Council meeting on June 7, 2017.

RESOLVED this 3rd day May, 2017

~ AND ~

18. RESOLUTION ESTABLISHING PUBLIC HEARING –SALE OF 39 NORTH EXCHANGE STREET

City Manager Horn presented the following resolution:

WHEREAS, the City of Geneva owns real property located at 39 North Exchange Street; and

WHEREAS, the Geneva City Council has deemed that the property no longer serves a public purpose and should be sold to a private party; and

WHEREAS, staff is soliciting private interest in this property; and

WHEREAS, if a proposal is determined to be in the best interest of Geneva residents, City Council anticipates a sale of the property.

NOW, THEREFORE BE IT RESOLVED, that a public hearing for the sale of the above referenced property be held at the regular City Council meeting on June 7, 2017.

RESOLVED this 3rd day of May, 2017

ACTION TAKEN by Clr. Valentino; seconded by Clr. Eddington
MOVED THAT these resolutions be approved
MOTION CARRIED

19. DISCUSSION REGARDING EQUITABLE HIRING POLICY

Clr. Gramling stated the following: “With the steps towards inclusion that the city has been making, I'd like to thank Matt Horn and staff for the efforts. To continue these inclusive efforts, I would like to propose an equitable hiring policy. Due to the fact that the City of Geneva has never had a hiring policy in place for non-civil service positions, I thought it would be advantageous that this Council put one in place. We have some great opportunities to become more inclusive and though we cannot employ all of Geneva, we can become much more reflective of our population, proactively securing these future practices. With research from similar municipalities, I have compiled an actual policy for consideration. The purpose of hiring policy will help create a level playing field for city employment, for all of Geneva's citizens to compete for available employment positions. It covers consistency mandating advertising for every non-civil service position. It addresses equity as we become more reflective of our community. It removes solitary decision making. It's Indicative of an inclusionary board in hiring process. It helps rectify the historic trend of underrepresentation in our publicly funded organization. It minimizes

implicit bias as well as the inclusion of a nepotism clause". Clr. Gramling said details are outlined in the draft, which he will forward to all Councilors.

City Manager Horn said he does appreciate the work that has gone into this complex matter and for including Jen Slywka our HR Director. He said he has also asked our City attorneys to review it to be sure material does not conflict with any Civil Service or other laws related to hiring. He added he is hoping Council would be open to putting a team together consisting of Council members, Jen, Emil, and a representative from OC Human Resources and community members to review existing policies and practices, review State and local civil service processes and laws, etc. Clr. Valentino said he compliments Clr. Gramling's efforts and was pleased when he read the draft. He said he agrees bringing in our HR Director's expertise will help.

City Manager Horn said staff will put together a team consisting of some City Councilors, our HR Director, a community member or two and perhaps someone from Ontario County's HR Department to help develop a hiring policy for the City. Clr. Gramling and team will bring draft back to Council for consideration.

20. DISCUSSION REGARDING STATE PARK LAND SWAP

City Manager Horn said in 2011 the City has was approached by the New York State Office of Parks, Recreation and Historic Preservation with a proposal to trade real property currently owned by the City and situated in Seneca County northeast of the State Park access road with land held by New York State to the southwest of the Park Manager's home. He said at Council's request, staff will begin negotiations with the State which will include value determination for both parcels and require State and Federal approvals. The State estimates that a trade could take up to two years to complete. He noted there is a second proposal which is that the State acquires the 7 acre parcel from us; however, staff is recommending that Council proceed with the swap.

Clr. Valentino expressed his compliments and glad this is finally looking like a reality. He asked if the State seeks a permanent easement along the existing trail and we've maintained that other piece of property, during the swap could there be some kind of verification on the seawall that it is sound before it's transferred, so if there are any issues they can be taken care of first. City Manager Horn said he did ask if we could do that if the State didn't and he was assured that we could, noting he does like the idea of getting an engineering report on that seawall prior to committing to perpetual maintenance on it. Clr. Camera said his concern is that we will now make that property much more valuable to the City not only for trail reasons but a parcel that developers want to figure out. City Manager Horn said the land is already deeded as a permanent conservation easement on our side of the fence. He added if the State were to put a 50ft. easement along the trail then that would be the only thing in a conservation easement that could be built up. Clr. Camera said one of the reasons he voted for the Waterloo development tract was to permanently take the lakefront part that the State owns off the table – nothing to swap for. Clr. Camera said since it is possible for us to get money for just selling the Waterloo parcel it would be nice to know what it is worth. City Manager Horn said we did forgo an appraisal. Clr. Camera suggested tabling this discussion until we have the other discussions about the lakefront, the Comprehensive Plan and all things the community is talking about, because people will wonder about it. City Manager Horn said it already took seven years to get this back to the table now.

Clr. Valentino said he is totally against passing on this opportunity. He said he's been promoting this for a long time. He added he understands Clr. Camera's hesitancy, because the forever green term that's used out there and to have the advantage of owning the lakefront puts us in charge of what we do with that lakefront. Further, we've heard from our constituents that we want our lakefront green and now it's up to us to continue to keep that green. Clr. D'Amico said he thinks the land swap makes sense and he hopes it happens.

The Council present gave staff the "green light" to pursue negotiations with the State to begin the negotiation process, which will include value determination for both parcels and ultimately require State and Federal approvals. City Manager Horn will follow-up on the engineering report.

21. DISCUSSION REGARDING SITE PROPOSAL – NORTH SENECA PLAZA:
PRESENTED BY FLX SKATEBOARD CLUB

City Manager Horn said as part of our 2017 budget, City Council authorized a challenge allocation to the Finger Lakes Skateboard Club to raise \$2,500 to match a City allocation of \$2,500 for preliminary engineering design work of a Skateboard Park.

Gabriella D'Angelo designer for the City of Geneva and Professor of Architecture at HWS and Joe Marone, City resident presented a brief overview of ideas they have collectively come up with at Bicentennial Park downtown. Gabriella said the context of its location to the City, the lake and downtown is a beauty. She added Bicentennial Park was constructed in 2005 and located on a mound but flatter than it appears. She said they were inspired to put a street style skate that blends into a neighborhood that acts as a park, a pedestrian walk space as well as a space for skaters and possibly a farmer's market – a space that is multifunctional within. They want to break down that visual barrier by removing the huge mound and carve paths within it. She said they came up with the Idea of glacial definitions and carvings throughout the landscape that form the Finger Lakes itself. She said in terms of circulation, it brings pedestrians from Lake Street through Canal Street and Exchange to Lake Streets – a lot of cross circulation throughout this space to bring people from the downtown to the waterfront and vice versa. She said the proposed plan introduces something that is vibrant and energetic with a nice flow to it, including some sort of lighting as it is a gateway into the City. She said they are also proposing that the parking space be formalized for a safe place to park.

Joe said the reason Geneva and Bicentennial Park is so important is because of its location. He updated Council to give them an idea of what traditional surrounding skate parks look like and how they are designed. Gabrielle said their proposal is different as Geneva's will be a destination for other skaters to come to this park which is uniquely urban.

When Clr. Eddington said he likes it and questioned what costs would be associated it with it, Gabrielle said they have not completely worked out all of the logistics as of yet. In terms of safety, she said skaters will need to be aware of their surroundings and walking pedestrians will be encouraged to keep their heads up. She added educational signage will be posted. Clr. Hagerman said he really likes that this park is more open and can accommodate both skaters and pedestrians at the same time. Clr. Gramling asked what type of multi-functional materials will be used. Gabrielle said they will be interviewing a variety of designers that do this type of work in order to get materials that are friendlier for both pedestrians and skateboarders.

Gabriella and Joe received affirmative head nods from the Council present to move forward with plans for a skate park in the downtown located at Bicentennial Park.

22. BOARDS AND COMMISSIONS APPOINTMENTS – GENEVA HUMAN RIGHTS COMMISSION

Clr. Valentino said this committee tracks attendance and two people are no longer serving based on attendance.

ACTION TAKEN by Clr. D'Amico; seconded by Clr. Valentino
MOVED THAT the recommended appointments of Jeremy
Wattles, Erica Collins, Jason Kinsey and Harlene Gilbert to the
Geneva Human Rights Commission be approved
MOTION CARRIED

23. PUBLIC COMMENT

Mayor Alcock opened Public Comment at 11:26pm.

Jim Meaney, 102 North Street. Mr. Meaney said a story published by Finger Lakes 1 last month prompted Clr. Hagerman to request that Council ask for an investigation in the handling of three domestic incidents that occurred at the same address between January and April of 2016. A NYS Law Enforcement Agency responding to a domestic violence call are required to provide a copy of the completed signed domestic incident report to the victim at the scene. He said none of the incident reports provided to the Geneva Police Department was signed showing that the GPD failed to follow domestic violence policy. The victim asked the GPD to follow-up and eventually was told that after reviewing the evidence Ontario County District Attorney's Office would not be pursuing charges, which was confirmed in a statement by the City Manager to Finger Lakes 1. This is of public interest because a Geneva City Councilor was named as the suspect in all three incidents, which raises serious questions about the GPD's handling of the case, whether the Councilor received favorable treatment. He said he echoed Clr. Hagerman's call for investigation; however, it is imperative that an outside agency investigate this issue. He also asked that City Council request a formal investigation by the NYS Attorney General's Office to explore the handling of these domestic incidents by the Geneva PD at the Ontario County DA. As reported by FingerLakes1.com, evidence in the first domestic incident included audio recordings made prior to the 911 call on January 24, 2016. In the recording the City Councilor was heard both admitting to potential criminal activity and actually committing potential crimes. He said kicking through a door, intimidating a person who tries to call 911 and spitting on someone while verbally abusing them could be one or all of criminal mischief, harassment or assault and battery charges. He added if this behavior was committed by a City male Councilor, City Council would have addressed this issue swiftly. Three months later, he said GPD responded to a third 911 call, while refraining from an order of protection was in place against the Councilor and no action was taken by the GPD. This Councilor has made only one public statement in response that did not include an apology, showed no remorse, took no personal responsibility, blamed the victim and claimed the behavior on the recording that it was not "real domestic abuse". He said Tenet 3 of the Code of Ethics states, "the professional and personal conduct of public officials must be above reproach and avoid even the appearance of impropriety". This City Councilor's personal conduct is certainly not above reproach and the appearance of

impropriety is crystal clear. He calls for Council to propose and pass a resolution and demand that Councilor Marino step down from her Council seat for her behavior as irreparably damaged her reputation and the public trust of City government. He said Council cannot pretend it is simply a “personal issue for Councilor Marino”. Lastly, he said domestic violence is a deadly serious subject and the reputation of City Council is at stake.

As no other persons of interest came forward, Mayor Alcock closed Public Comment at 11:29pm.

24. MAYOR AND COUNCIL REPORTS

Clr. Eddington reported the following:

- Zoning Board – met and the Trinity Church application was tabled until the May meeting.

Clr. Camera reported the following:

- Trinity Church – Clr. Camera read the following aloud:
“The City Zoning Board has been going back and forth about the Trinity Church issue for the last several months. The main issue is that the Trinity parish has found a developer who offers a project that can both preserve the sanctuary or worship by the members and at the same time be a profitable hotel/restaurant/event space. The problem is that the area is zoned MR and does not allow this kind of commercial operation. The parish wants the City’s Zoning BD to make an exception.

The application for a variance has so far failed on two particular aspects of zoning law from what I can understand:

- The parish cannot prove economic hardship and in fact it might be self-imposed
- The use as a nightclub is incompatible with the neighborhood character.

There has also been some confusion on the Board itself in understanding the interpretation of rules of zoning law.

My concern starts with a couple of things. Just prior to the meeting last April 25th, an opinion was rendered by City’s legal counsel that suggested that someone had asked for it. The opinion was an interpretation of whether or not the use of the parish as a nightclub was compatible with the Comp Plan. Well, I was also privy to an opinion written by a local legal professional who besides showing the failure of the project to pass the use and economic hardship tests required by zoning variance law also pointed out that the Comp Plan said that MR was an appropriate designation for S. Main St. I do know that a number of City officials and City Councilors have been attending these Zoning meetings. So, given the interest by City departments and some members of CC, I would like to know who on City Staff authorized or requested that the City’s legal counsel render the opinion regarding compatibility with the Comp Plan?? The CC should have at least been informed that this was being done. I thought and assumed that the only thing that CC agreed on was that the members of the Zoning Board should be better trained to interpret Zoning Variance law per NYS rules and that was it. It seems to me that some members of the City staff or CC are favoring a certain outcome of the vote and that is inappropriate”.

City Manager Horn said he asked Sage Gerling to develop a memo on congruence with the Comprehensive Plan, because the statement, including the one just made above about multi-residential being the appropriate designation for that district is

incomplete and possibly misleading. He added the Comprehensive Plan calls for a complete rewrite of the zoning code, favoring a form-based zoning code that focuses less on use in a particular district and more on preservation of urban form. He added if you read Sage's memo you would be hard pressed to find something in it that is inaccurate. City Manager Horn said if the core issue is whether the Zoning Board is going to approve or reject this variance, then this is a very inappropriate conversation per the Code of Ethics. He said City staff's role is to support planning and to support Boards and Commissions and he felt it would be an incomplete analysis to let the constituent's review of the Comprehensive Plan stand when the person that managed the entire development of the Comprehensive Plan was readily available and willing to write the report.

Clr. Camera said he appreciates the clarification. He said then it should be explained that if we make this exception for this particular parish in this location then we make exception to all other Churches in the City of Geneva. City Manager Horn said that in Sage's memo it does not recommend that a variance be granted, he has not recommended that a variance be granted and no one has contacted a member of the Zoning Board to suggest that a variance be granted. He said the question of whether the project is congruent with the Comprehensive Plan is nearly irrelevant to whether a variance should be granted or not; therefore, the assertion that it is incongruent with the Comprehensive Plan earlier needs to be corrected immediately. Clr. Camera said he stands corrected; however, there is a Church on N. Main Street that does not have a large congregation that may possibly be in the same sort of trouble and by not applying the current MR designation and the rules opens up that parish to wanting to sell out and get a nightclub in here. Clr. Camera said the purpose of the Comprehensive Plan also is to drive bars, restaurants and events space to downtown. He apologized for speaking inaccurately about the application of the Comprehensive Plan.

Clr. Hagerman reported the following:

- BID
 - Open House, May 5th, 5:30 to 8:00pm, Nathaniel Block – available for rent (May occupancy) in honor of Nathaniel Linger who passed away in 2015
 - Chamber Golf Tournament, May 24th, Silver Creek Golf Course
 - Looking for a Maintenance Assistance person, 35 hours per week, call 789-0102.
 - HWS partnership continues – student Jack Haskell will continue sitting on the Board through the summer and community research project presentation
 - Small Business Seminar – Coffee and Company, very well attended
 - Downtown Flower Beds – approximately 6 to 8 beds are available for adoption
 - Cruisin' Night – on-gong meetings, pursuing additional corporation sponsorships
 - Beer Service – will be put out to bid, which will take place May 12th
 - Advertising – Rochester magazine, July issue featuring stacations
- Historic North - held their 2nd annual Easter Egg Hunt at Genesee Park, about 160 participants
- Seneca 7 – held this past Sunday and he thanked Jeff Henderson and Jackie Augustine for all their work in this
- Cory Jackson Community Day – May 20th at Genesee Park, 3pm to 7pm. Tomorrow night's meeting, May 4th at 6pm at 41 Lewis Street

- Historic Downtown Group – met and is looking for volunteers to help with the upkeep of the Butterfly Garden.
- May is Maintenance Month – any improvements needed to your home, please contact the GNRC who is here to assist

Clr. Valentino reported the following:

- GHRC - is working on getting new members oriented to the mission initiatives
- Geneva Historical Society – they received 84 inquiries from 7 states
 - Cemetery Arch, how close is that to being completed. Clr. Valentino asked City staff to communicate a response to the Historical Society group
- Neighborhood – Arbors, July 4th Parade, monthly meeting – 2nd Monday at 6:00pm @City Hall; also volunteered for Seneca 7; Castle Heights, May 13th is doing a planting in the circle; Hildreth Hill – list of ideas, volunteer coming up for the Musselman Triathlon and lunch program on Flag Day

Clr. D'Amico reported the following:

- Monday Night Conference Call – an email blast was posted, but no one showed up. He'll work with Rhonda to enhance communication about this
- Western Gardens – block party, May 21st
- Founders Square Neighborhood – received a Grant from Excellus Blue Cross/Blue Shield to have free Yoga sessions in the park each month; Yoga, May 28 at 2:00pm.
- Citizens Budget Academy - going quite well and there are a few members of Ward 2 that are participating in it
- City Code – indoor upholstered furniture is not permitted outside in a yard or outside on an open front porch. This code is not located in the City Code. City Manager Horn said it was inadvertently deleted from the Code and staff is working to remedy that.
- Air B&B in Seneca County – can County's make individual deals. City Manager Horn said they can and he met with Ontario County Tourism and will be setting up a meeting with Supervisors Evangelista and Bendzlowicz to determine what their position is.

Clr. Marino reported the following:

- Historic South – also volunteered for Seneca 7 and was stationed at the Smith Opera House on registration day. The neighborhood appreciates the donation the Seneca 7 is making back to the neighborhood
 - Musical Porches – still accepting musicians for the event, June 17th
- South Lake – still accepting applications to host your garden for the Garden Walk scheduled on June 24th and 25th
- Ward 1 Coffee Hour – went really well this past Saturday. The next coffee hour scheduled on June 3rd at L & R Restaurant with Gordy Eddington at 10:00am.
- Shadetree Committee – facilitated Arbor Day and 400+ students were in attendance. She thanked Sage Gerling, GPD and DPW for their help in coordinated this event. She thanked a HWS student for leading the students in a group activity.
- Livability Task Force – attend Cornell University's Town and Gown Conference with Rhonda Everdyke. She said they networked and brought back a lot of ideas to implement in their own group.
- Geneva 2020 – Saw a presentation given by City Manager Horn and Amy Sellers
- Water Protection Project Grant – asked if we are applying for this Grant that Senator Helming had promoted. City Manager Horn said we are and that we have reached out

to Finger Lakes Institute and it looks like the Town of Geneva might take the lead and the City stands ready to support.

Clr. Gramling reported the following:

- Geneva Historic District – there were three approvals: 623 S. Main Street for landscape recodifications, Steve O'Malley's house to be painted and roof replacement work on S. Main Street and 25 Genesee Park Place, roof work replacement without gutters right now.
- Washington Cemetery Gateway Arch – almost complete and looking for masonry work to be completed by Memorial Day.
- 5 & 20 Bridge Upkeep – needs some beautification work. City Manager Horn said painting has been completed and it looks good.
- West Street School - will visit the school on Flag Day, June 14th and looks forward to it

25. CITY MANAGER REPORT

City Manager Horn wished Adam Blowers "Happy 7th Anniversary" as a City employee.

City Manager Horn thanked Jeff Henderson for the Seneca 7, both for the economic impact and in an effort to help keep our health insurance costs down. He said City staff are participating in a Walking Challenge, wearing pedometers, keeping track of steps and trying to outdo one another for a total for the first 3 weeks of about 18.5 million steps. Jeff Henderson said he appreciates all the kind comments but would be remiss if he didn't mention that Jackie Augustine who is also responsible for a huge amount of work that goes into an event like this.

Board of Ethical Review Report – City Manager Horn said two reports were completed in January, 2017. The Code of Ethics requires that any ethical complaint that is substantiated be reported out at a subsequent City Council meeting. The full versions of these reports will be available in the City Clerk's Office. In summary, City Manager Horn read the following:

The Board of Ethical Review has sustained an allegation of violations of Tenets, 1, 3, 4, 5, 10 and 13 of the Code of Ethics against City Councilor Ken Camera:

- Tenet 1 requires Councilors to act in the public's best interest
- Tenet 3 requires Councilors exhibit conduct becoming public officials
- Tenet 4 requires that Councilors respect the policies and processes developed by City Council
- Tenet 5 requires that Councilors prepare themselves for actions set to become before the body
- Tenet 10 requires Councilors respect the confidentiality of protected materials
- Tenet 13 requires Councilors refrain from using their title or position to publicly advocated for projects or positions that have not been officially established by City Council and to explicitly disclose when such is the case, in other words to explicitly state they are not speaking for the body.

The Board found that Clr. Camera's conduct of a meeting regarding the sale of property contributed to a breach of Tenets 1, 3, 4 and 10. Clr. Camera's conduct at a City Council Meeting contributed to a breach of Tenet 5 and that his execution of multiple letters using his title as a City Councilor contributed to the breach of Tenet 13.

In a second report, the Board also sustained an allegation of breach of Tenet 7 against the full City Council and City Manager relevant to the process utilized to solicit proposals for a parcel of property adjacent to Seneca Lake State Park. Tenet 7 requires that Councilors and staff release substantive information to the public prior to taking action. The Ethics Committee determined that the information released as part of this potential sale was not substantive enough to provide the public with clear understanding of what was taking place.

In both cases, the Board recommended training and discussion of these matters to ensure future compliance, which City Council scheduled and executed at its annual retreat. Copies of both reports are available for review at the City Clerk's Office.

26. ADJOURNMENT

ACTION TAKEN by Clr. Eddington; seconded by Clr. D'Amico
MOVED THAT this meeting be adjourned at 12:02am
MOTION CARRIED