

AGENDA

REGULAR COUNCIL MEETING

CITY OF GENEVA, NEW YORK

August 2, 2023

**Public Safety Building
255 Exchange Street
Geneva, NY 14456**

COUNCIL MEETING STARTS AT 7:00PM

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- I. CALL TO ORDER – Mayor, Steve Valentino
- II. PLEDGE OF ALLEGIANCE
- III. ROLL CALL
- IV. PUBLIC HEARINGS
 - Local Law to Reduce the Planning Board Membership
 - Renewal of the Cable Franchise Agreement between Spectrum Northeast LLC and the City of Geneva
- V. SUPERVISOR UPDATE
- VI. DRI UPDATE
- VII. FOUNDRY UPDATE
- VIII. CONSIDERATION OF MEETING MINUTES

This portion of the meeting is dedicated to correction of meeting minutes for the following Council session:

 - A. July 5, 2023 (Regular Council Meeting) {Page 2}
 - B. July 10, 2023 (Special Council Meeting) {Page 28}
- IX. PUBLIC COMMENT

This portion of the meeting is dedicated to receiving comments on any topics. The standard time limit for public comment is three (3) minutes.
- X. CITY MANAGER REPORT – *This portion of the meeting is dedicated to presentation of a report by the City Comptroller on non-action matters that have not been addressed elsewhere on the agenda.*

XI. UNFINISHED BUSINESS

This portion of the meeting is dedicated to consideration of matters that have been previously considered by City Council. These include:

- A. Second Reading of an Ordinance Amending Chapter 256 Entitled "Peddling and Soliciting" – Presented by City Clerk Guinan #7-2023 {Page 33}
- B. Local Law to Reduce the Planning Board Membership - Presented by City Manager Hendrix #2-2023 {Page 35}
- C. Resolution Renewing of the Cable Franchise Agreement between Spectrum Northeast LLC and the City of Geneva – Presented by City Manager Hendrix #25-2023 {Page 37}

XII. NEW BUSINESS

This portion of the meeting is dedicated to consideration of matters that have not been previously considered by City Council. These include:

- A. 2024 Budget Process Outline and Capital Plan Overview
- B. Resolution for the 2023 NYS Consolidated Funding Application Stormwater Infrastructure Engineering Planning Grant Application SEQRA Approval – Presented by City Manager Hendrix #26-2023 {Page 53}
- C. Resolution of Support & Authorization for the City of Geneva 2023 NYS Consolidated Funding Application, Non-Agricultural Nonpoint Source Planning Grant Application – Presented by City Manager Hendrix #27-2023 {Page 55}
- D. Discussion on Committees, Task Forces, and Boards {Page 57}
- E. Discussion on City-Owned Property
- F. Resolution Approving Proposal for Engineering Services Marsh Creek WWTP – ATAD System Improvements – Presented by City Manager Hendrix #28-2023 {Page 63}
- G. Resolution Amending the 2023 General Fund Budget for Demolition of 46 Hallenbeck Ave – Presented by City Comptroller Newcomb #29-2023 {Page 65}
- H. Resolution Establishing a Public Hearing for an Amendment of the City of Geneva Code Chapter 350, Short-Term Rentals – Presented by City Manager Hendrix #30-2023 {Page 67}
- I. Resolution in Support of the Submission of a Grant Application by the Smith Center for the Arts to Ontario County for Federal American Rescue Plan Funds – Presented by Clr. Regan #31-2023 {Page 77}
- J. Board/Commission Appointments

XIII. MAYOR AND COUNCIL REPORTS

This portion of the meeting is dedicated to presentation of reports by the Mayor and City Councilors on non-action matters that have not been addressed elsewhere on the agenda

XIV. PUBLIC COMMENT

This portion of the meeting is dedicated to receiving comments on any topics. The standard time limit for public comment is three (3) minutes.

XV. ADJOURNMENT

THE GENEVA CITY COUNCIL

JOURNAL OF PROCEEDINGS

REGULAR COUNCIL MEETING

July 5, 2023 – 7:00 PM

Cornell Agritech Campus, Jordan Hall
630 W. North Street
Geneva, NY 14456

Presiding – Steve Valentino, Mayor

1. ROLL CALL

Present: Clr. Regan, Clr. Camera, Clr. Salamendra, Clr. Burrall (via Zoom), Clr. Pealer,
Clr. Noone, and Clr. Brimm

Excused: Clr. Gaglianese

2. PRESENTATION - Health Insurance by Greater Tompkins Municipal Health Insurance Consortium (GTMHIC)

Elin Dowd of Greater Tompkins Municipal Health Insurance Consortium told council that this consortium started over 10 years ago in Tompkins County when the rates were rising every year. She said they could have just joined together to purchase insurance, but the consortium felt it would be better for them if they became an Article 47, self-funded organization. She said they create their own health plans to be competitive, noting that they must adhere to all NYS health insurance mandates. She said that their plans have to be approved by all members, and all members have a voting seat on the board.

Ms. Dowd told council that they are welcome to call any of the other municipalities located in 16 different counties who are in the consortium to hear what they have to say about the program. She said they have very few staff members, and they purchase professional services when needed. She said that right now they are partnering with Excellus to be their claims administrator along with ProAct for prescription claims and with their partner, CanaRx.

Ms. Dowd said they hold two board meetings a year, and they welcome CSEA to show they are open and transparent along with any municipal employees who are members. She said they have a joint committee on plan structure and design that is required by New York State, and all benefit changes go through them. She said the Board of Directors set the annual budget each year, determine premium rates, accept new

members, approve new plan design, and ensure fiscal soundness and prudent operation of the organization. She said their money comes from premiums and pharmacy rebates, and when the market is good, they get money from investments. The majority of expenses are claims paid out with a small percentage for administration and overhead. She said that rate stability is built in the reserves, and they have \$10.5 million in the unincumbered fund balance. She noted that in the last 10 years, their average rate increase has been 6.12%, and in the last 5 years, the average premium increase has been 5.30%.

Ms. Dowd said that the City of Geneva currently has five health plans while they have two. She said they computed about a \$200,000 savings in 2023 premium costs for the city. Lastly, she said that they also feel preventative healthcare is important, and they host flu clinics, do biometric screening and promote participation in monthly wellness challenges.

3. DRI UPDATE

WORK COMPLETED TO DATE:

The prime contractors new electrical subcontractor had progressed on contract and corrective action traffic signal work. Concrete sidewalk and flexible pavement surfaces are being constructed. A project punch list has been submitted to the contractor but is being disputed. No work has been completed in several weeks.

A letter of project Substantial Completion was prepared and submitted to Nardoizzi on February 8, 2023.

A letter quantifying all remaining contract work and an Uncompleted Work Agreement was prepared and submitted to Nardoizzi on February 8, 2023.

A DRAFT Change Order Number 7 was submitted to Nardoizzi on February 28, 2023. Project quantity units were balanced either plus or minus resulting in a zero-cost increase to the project totals.

A DRAFT Pay Application 17 was submitted to Nardoizzi on 3/6/23. The contract sum paid to date remains at \$9.23 Million.

We are waiting on the contractor's acceptance of all of these items.

A meeting has been scheduled for July 14 to discuss project issues and completion action plan.

4. FOUNDRY UPDATE

Remedial Design

- Remedial design plans were issued for four properties located along the south side of Tillman Street and four properties located along the east side of Geneva Street south of Tillman Street. Meetings were held with the respective property owners to review the plans.
- Remedial design plans continue to progress for the last remaining block of residential properties, which includes ten properties located south of St. Peter's Church along Genesee and Geneva Streets. Meetings are being held with the respective property owners, with issuance of designs anticipated in late July or early August.

Remedial Construction

- Property restoration items, such as installation of sod, fencing, concrete, and asphalt, were completed in the block of six properties located along the west side of Genesee Street just south of Lewis Street, and in the block of nine properties located along the south side of Lewis Street, east side of Geneva Street, and north of Tillman Street. Replacement plants and trees are anticipated to be planted during fall 2023.
- Restoration items were completed in Genesee Park, including installation of an irrigation system (for the mature trees that were protected in place), concrete, topsoil, sod, and new trees. Some additional minor landscaping items are pending, and the new sod will be watered for a 4-week root establishment period.
- Tree removal activities commenced in the block of eight properties located along the east side of Geneva Street south of Tillman Street, and along the south side of Tillman Street. Excavation of this block will begin on or around July 10, with substantial restoration expected by Labor Day.
- Remediation of the last remaining block of residential properties, located along Genesee and Geneva streets just south of St. Peter's church, is expected to begin around Labor Day 2023, with restoration substantially complete by the end of the calendar year.
- Remediation of the State Street staging area, located on the parcel just east of the railroad, is anticipated to be completed in early 2024. Demobilization from the additional project staging area on Lehigh Street will also be completed in 2024.

5. CONSIDERATION OF MEETING MINUTES

ACTION TAKEN by Clr. Noone; seconded by Clr. Regan

MOVED THAT the minutes of the June 7th Council Meeting be approved

MOTION CARRIED UNANIMOUSLY (8-1absent)

6. AMENDMENT TO THE AGENDA

ACTION TAKEN by Clr. Salamendra; seconded by Clr. Brimm

MOVED THAT the agenda be amended to include a Resolution Authorizing an Agreement between Trillium Health and the City of Geneva for a Narcan Vending Machine

MOTION CARRIED UNANIMOUSLY (8-1absent)

7. PUBLIC COMMENT

Bill Cosentino said that he is not against food trucks, noting that he operates Cosentino's Ristorante here in Geneva. He pointed out that the City of Geneva paid millions of dollars to get people to come to downtown, and now they want to put food trucks at the lakefront to keep people at the lakefront. He read a rebuttal letter he received pertaining to a letter sent to council. The council member said that food trucks do not pay the overhead that the businesses downtown pay and this person feels food trucks are meant for events or when there is no food available in the area. He said he feels allowing food trucks to set up permanently is not fair to the businesses who pay property taxes and the BID tax. Mr. Cosentino said it was also noted that food trucks offer international fare, and he pointed out that our downtown offers Mexican, Puerto Rican, Italian and Gelato. He asked council to be creative and not prevent people from coming downtown. Lastly, he said that he is against food trucks coming to downtown.

Catherine Price said that the position of the BID is that they are not anti-food truck, but rather anti-food truck ordinance. She said gatherings in the local parks would be better than seven days a week keeping people from coming to the downtown. She said they had a food truck rodeo last month at Bicentennial Park to show how people can be directed from the lakefront to downtown and to local restaurants when the food trucks don't have what people are looking for. She said that the DRI was designed to bring people to downtown, noting that the BID event did just that. She said they would like to protect the 36 restaurants in the downtown district. She said she thinks setting up food trucks on a permanent basis would be a disservice to our downtown restaurants.

James McCorkle urged council to censure the second ward councilor for his violent and hate filled comments made on social media. He said that while a councilor is free to express his bigotry, his speech is not protected speech especially when he suggests the purging of certain people. Mr. McCorkle said that censure is ethically required, and he urged them to demandingly urge him to resign. He said that the councilor has refused to apologize, and he feels that by his not apologizing or resigning, this councilor holds us all in contempt. Mr. McCorkle said that the local GOP has not condemned this councilor and he feels everyone is hoping that memories are short and this will all blow over, but he feels that everyone's silence promotes hate, violence and oppression.

H May said that she did not want to return tonight, but was inspired last month by those who spoke, celebrating LGBTQ+ people in this community. She said it felt great to be among friends. She said she also felt demoralized and enraged that members of the LGBTQ+ community had to come before this council and tell their stories to gain council's respect. She said that she knows councilors have their own trauma, but she does not agree with people being accused of things when they are fighting to be inclusive. She said she did not want to come tonight and bare additional witness to the trauma endured by her fellow queer Genevans. She said she is here tonight to demand that this public opening of wounds is not for nothing, and she feels that by council voting to censure this councilor, they are telling the LGBTQ+ community they are deserving of respect and are welcome here.

Erin Scherer said that council needs to vote to censure this councilor in order for the LGBTQ+ members to feel like they belong here.

Barney Goldstein said that he supports the censure resolution for the councilor's abusive behavior, and in addition to all of the other reasons he and others have shared, he feels it is simply the right thing to do.

Rafael Diaz said that he is standing up for his rights and not trying to offend anyone. He said that he has been here since 2005 growing his food truck business noting that it has been hard running the food truck, restaurant and bar all while paying insurance, taxes and employees. He said that it is good to have other food trucks here and does not feel they hurt our restaurants. He said he buys local and supports events in the city. He asked council to allow food trucks in the city.

Charles King said my first experience having a friend with gender dysphoria was in second grade, 1977. The child had been bullied in public schools and moved to my private school where the atmosphere was bit more gentle. After a couple of weeks of giggling and asking the kid whether they used the girls' stall or the boys' stall when they went to the bathroom, we settled down and were just friends. They joined my friend group, and I remember them being good at decimal bricks, having lots of different pairs of overalls and a cool haircut. There was nothing sexual about a bunch of 7-year-olds accepting a friend who couldn't identify with their birth gender. I watched a TED talk recently where the prevalence of genetic intersex (both male and female) traits was scientifically compared to the number of people with genetically natural red hair, both are at about 1.7% of the human population. These people have always been in our communities, they've just had to hide. The entire LGBTQ+ community is maybe 10% of the population, which is about as frequent as lefthandedness. Adjacency arguments are fallacies. We see this line of argument used against the Catholic church, for example, even though it's the largest social services organization in the world. Some priests are pedophiles and some in the leadership cover up priestly misdemeanors (these are obviously bad actors), but by adjacency, All priests are evil? All Catholics are evil? All Christians are evil? All religion is evil? No. Adjacency is not culpability, and oftentimes a person's concept of who is adjacent to whom can be illogical and wrong. The culture war being waged on the LGBTQ+ community uses many adjacency fallacies. One gay couple is pedophiles, one sexual predator uses the wrong bathroom, and suddenly it's all of academia, everyone who voted for Biden, and even Geneva Public Library who are to blame for a cultural uprising, and fearmongers use a made-up victim card proclaim that everyone's daughter is in danger when they go to the bathroom. Internet rabbit-holes

have some of you believing you're in a perpetual holy war against your own constituents to maintain Western culture—you are not at war, and maybe your idea of Western culture has been spun out of whack online. As a publishing freelancer, I work on all sorts of books. A book I was editing, recently for a major conservative fundraiser spells out the conservative agenda for the 2020s: 1) start single-issue non-profits to raise money for hot-button local issues and 2) ceaselessly brand everyone on the left as a Marxist. My Ward Councilor, who I believe is the Mayor's appointed Deputy Mayor is not inhuman. He's a Mets fan; nobody who's a long-suffering Mets fan is 100% bad. But he has trolled his constituents using prejudiced and abusive language in these posts, and to me that crosses a line. There should be a censure because of these writings, and, Mr. Mayor, he should no longer serve as your Deputy Mayor.

Jess Farrell said your agenda tonight includes a resolution to censure the Ward 2 councilor, and I would like to urge all of you to vote yes in favor of censure. Looking at the councilor's tweets, I think every member of this council should have been able to immediately recognize that they are discriminatory and harmful and that they merit censuring the Ward 2 councilor. However, if perhaps this wasn't entirely obvious to you on first read, last month, you heard from numerous members of our local LGBTQ+ community. They spoke to you directly about how the councilor's tweets have impacted their lives and their mental health. In many cases, they gave you a window into the discrimination and harassment they have faced throughout their lives for who they are, and they spoke to how the councilor's tweets fit into that pattern of abuse. I am very grateful to those community members who were brave enough to come forward and share these intimate stories and this personal pain, but I join H May in really wishing it hadn't been necessary. As I said, I think this should have been obvious on reading the tweets yourselves. As you know, tenet 1 of the Geneva City Code of Ethics reads, in part: "Public Officials . . . will assure fair and equal treatment of all persons, claims, and transactions appearing before Public Officials." This is saying that, as public officials, it is your duty as councilors to ensure that your fellow public officials—in this case, your fellow councilor—give all people "fair and equal treatment." In other words, it is your duty to hold one another accountable—that is directly written into the code of ethics here in tenet 1, you must "assure fair and equal treatment of all persons" by public officials—if you see a violation of this, it is your duty to do something about it. It is clear that when a councilor is publicly making discriminatory statements, he is not treating everyone fairly and equally—and as I said, if you hadn't realized that on first reading the tweets yourselves, you heard from plenty of people in our community last month who explained how they are not being treated fairly and equally by the councilor. It is, therefore, your responsibility to do something about it under the tenets of our code of ethics which you have agreed to uphold. And while there are limits to what you can do—for example, you cannot remove the councilor from office—you can and therefore must

censure him or else you will be in violation of our code of ethics yourselves by not assuring all of us fair and equal treatment.

Mario Torres said that he is a first-generation college graduate and entrepreneur in his family. He said that this is his livelihood, and he has different expenses than local restaurant owners such as purchasing water at a local store. He said that Blueprint Geneva is having a commissary built in order to assist future entrepreneurs. He thanked the BID and Geneva for the food truck rodeos saying that he would like to see events in parks and the vendors being allowed to park all over the city to help bring the community together. He said he feels that if the locations were expanded and the license fee lowered, they would work better for him. He encouraged council to table this tonight to work on it some more as it is late in the season.

Kadejah Clark and her husband Jeffrey told council that they are currently living in a hotel with their children due to a recent storm. Mrs. Clark said that the two sewer drains across from their house malfunctioned for the second time in three months allowing water to pool around their home. She said that the last time this happened was April 5, 2023 when they lost many sentimental possessions. She said that two sides of their foundation collapsed. She said it was her understanding that the sewer drains malfunctioned during the April 5, 2023 storm, and they were told it would be fixed. She said that they have owned their home for a year and nine months and they don't know how they are going to thrive when heavy rain can cause these issues.

Sharon Dutcher said that she has lived on Oak Street for 31 years and there is substandard drainage on their street. She said that the recent rain resulted in 3 feet of water on their street. She said that city employees recently said that the last storm issues were caused by debris in the sewer, but she feels that is not true. She said she watched city employees snake the pipe and saw them struggle to get the snake out. She said something is wrong, noting that this is not the first time she has complained. She referred to a Finger Lakes Times article that directed the focus on the downtown DRI project where work was significantly compromised, including the green infrastructure. She said that the article said that the city was going to look at ways to address the issue. She said that citizens are suffering throughout the city, and as of today, her councilor has not reached out. She said that the city spends millions of dollars in our city to revitalize the downtown, and she wants to know what will be done because residents are demanding it.

Cynthia Williams said that she supports the censure tonight because the councilor's actions were reprehensible and deserve censure. She thanked Clr. Camera for bringing this resolution forward, and she hopes council takes into consideration the volume of comments received last month and tonight. She said that she feels the delay in bringing this resolution forward is troubling, saying she feels other councilors must think people will forget about it, and she urged council to vote in favor of censure.

Michael Monaco said there is an Air B&B next to his house noting there have been 7 incidents of trespassing and loud noise there in the past 30 days. He said he has tried to work with the owners about the noise, trespassers on his property, and renters setting off his alarm, and was told that if he didn't like it, he could move. He asked why the Bed and Breakfast code does not apply to Air B&B's. He said they have one parking spot for four bedrooms. He said that the renters come on to his property and look in his windows. He said that the city needs to take care of this problem, noting that he has lived there for 24 years. When councilors asked the address of the rental property, Mr. Monaco said it was 25 N. Main Street, and the owners do not live in Geneva.

MaryAnne Calabrese said that she is a member of the Republican Committee and she is speaking for Anthony DiCostanzo tonight and will read a letter he prepared: My name is Anthony DiCostanzo and in full disclosure, I am a member of the city Republican committee but I am speaking for myself, not the committee. I want to address the council tonight in regard to the most recent discord we've seen between council and the public and maybe how we can finally move beyond the constant clashing of the council as a whole, or individual councilors, with the public at large, or certain special interest groups among our city's residents. First, I'd like to speak to "freedom of speech" and how we all need to respect that right without making a general assumption about a person. We all do it and that has added to the discord we see on the council and within the city. Most recently, a councilor commented on a social media post and tried to point out the hypocrisy of a sign posted in the lawn of convicted child molesters. It was immediately presumed that this councilor had a deep prejudice against ALL LGBTQ+ persons. Why? Because we've gotten to a point where we talk at each other instead of to each other. There have been past similar incidents from members of this council that have drawn similar ire. We all pick and choose when to show our indignation. There have been examples of attacks against our police and fire departments by a certain councilor so we make the assumption that they must be totally against these men and women, yet, I don't believe those councilors would be upset if the GFD showed up at a fire at their home, or if the GPD showed up at their home if there was a burglar trying to break in. So, are they really totally against those departments? I've sat where you all now sit. Governing is hard sometimes because we all have our own opinions. Sometimes we agree and other times we do not. You all were elected to represent your constituents and to be statesmen and stateswomen. You can't do that if you automatically assume the other side is totally wrong and you won't engage in civil conversations. This council has 6 months left in its term which is an eighth of your total term. Maybe that time can be used on actual city business and not on playing "got ya" every time someone makes a comment in public or on social media. Maybe we need to ask why instead of just saying "aha"! It's time we start engaging those we don't agree with or else we will be facing another four years of discord here in our great city of Geneva. Thank you for your time.

Shauna O'Toole said she is the Director of the We Exist Coalition of the Finger Lakes, and their mission is that they are a voice and presence for the transgender and gender expansive community. She noted that earlier many of us recited a pledge which ends with "...with liberty and justice for all." This means all people and not just certain people. She said that there is a member of this body who does not seem to

believe in this pledge because of his actions of spreading hate, fearmongering, and outright lies. She said that this mindset casts negatively on this body and the entire city. She said this is why the president and members of congress have someone else handle their social media. She said that this has always been about discrimination, and feels it is a violation of the oath of office and the pledge to work for liberty and justice for all. She said there is a rising plague of hate across this nation, and she has a friend moving to New York from Florida because of that hate. She said she thought about leaving, but remembered an oath that she took in 1985 where she raised her right hand and swore an oath to support and defend the Constitution of the United States of America against all enemies both foreign and domestic. She said these are words recited by elected officials, soldiers, and immigrants. She said we need to get rid of this bigotry and hatred and learn. She asked for council to censure this councilor and for him to step down.

Cameron DeWilde said that his transition started when he was in 10th grade. He said he dealt with transphobia in high school and is a sexual assault survivor. He said that this transition has been the most terrifying yet beautiful thing he has ever experienced. He said that if anyone cared about children, they would care about the children who get raped by cisgender men. He said he will not stand for being labeled a pedophile when that is not true. He said that this is 2023, and trans people will die fighting for what is right.

Savannah Buck said that she was here tonight to speak about the reference to pedophilia by a council member. She offered some statistics: 52% of pedophiles are 30 or older, 57% are white, 54% are straight or claim to be, 55% are men in power, and when people are overly accusatory, she feels that means they are guilty of that same thing. She said that anyone who associates with this councilor should be ashamed of themselves. She asked council to censure this councilor.

Rich, John and Ian - Owner/Partners of Twisted Rail Brewing - I did attend last month's meeting but was not afforded the opportunity to speak or even gain access to the meeting room. Proceedings were watched via YouTube broadcast in the hallway until the meeting was adjourned. As a "brick and mortar" owner and taxpayer on Exchange street I would like to comment on the idea of allowing food trucks to the downtown business area. Over the past 5 years that we have owned and heavily invested into downtown Geneva, we have seen a city that was looking to turn the corner from a small town into a destination. Our brewery project was touted by Sage as a "cornerstone" to the redevelopment effort to revitalize the downtown area. After a massive 2 year renovation that cost double the original budget we were able to open in September of 2019. After just 5 months of building our business we feel pray to the NY Covid shutdown. Very limited business hours with big restrictions were allowed 3 months later with most restrictions lifted 12 months after that. A few government programs helped us keep employees paid during this time frame but there was no relief on massive construction loans, mortgage, sewer, water and property taxes. A much deeper hole was dug for us as a business but we continue to forge ahead by hiring more locals for work, expanding our hours to 7 days a week and adjusting our menus to bring value and great quality to the city of Geneva, its residents and guests. We provide free music plus drink and food specials to everyone several times a week as well. The last thing we hope to see downtown are diminished opening hours and/or staff layoffs for any controllable reason. All local restaurants and pubs

share a similar story of survival. A quick count today showed well over 40 great places to drink or eat. The variety of food and drink are one of the highest in any town outside of Rochester or Syracuse, all within a short walk. Certainly the merits of what Geneva already has is outstanding and needs to be publicized, not punished. Hats off to all Geneva businesses for their investment into the city, its residents and their perseverance to show off their products and services every day no matter what the weather or season it is. If someone cannot find enough variety downtown, they are clearly not looking at all. Food trucks do have a place as well. Large events where the visitors grown by 10x or more, special events along the lake in the park where a confined area or perimeter is enforced to join in or a special advertised day or "Rodeos" where such activity is used to drive new visitors downtown, not take away from the everyday businesses that have chosen to invest their time and money into a business here year round, not just when the summer sun shines. Of course any truck or truck event will need to provide adequate seating, trash receptacles, clean up and rest rooms for its patrons. Using another business's facilities for any of the above is an avoidable and unwanted burden. I look forward to the City working with all businesses to find the right time and place for such outside vendor activity as well as the infrastructure to support it.

Christen Davis said the agenda for tonight's meeting reflects the precipice of important decisions and hopeful change we find ourselves at. What we do with the lakefront, which belongs to all of us, and what type of representation we decide on, both tonight and in the upcoming elections, are determining factors in who we are as a Geneva. Hearing the voices at the last meeting reminded me that the leaders of this city have much riding on their words, decisions, and in turn beliefs. The public comments reminded me that leadership must reflect all aspects of a community and the sub-communities they represent. Communities that are alive with color and talent. All which exists despite one's knowing of or approval of their existence. We don't have to swim in these pools of people to respect and value them. I, though it likely helps. The take away for me was that everyone must feel valued for true healthy progress to occur and no one should be made to feel unsafe, listening it seemed like many were feeling that way. Some of you have scared those you have been elected by. Not scared because they feel they are losing control, an ongoing concept reflected on posts about the issues by some. Scared in that you make them feel unsafe with your words, actions and political power. You do not have the right to make anyone feel afraid because you are. Fear is not our friend, love is. Gay is not a bad word. People who see things differently are not stupid, communists (unless self declared), or any other label used to intimidate, scare or squelch change. We can find a way to work together, if we elect people who believe and want collaboration and progress, instead of control. This city is no groups to control. This city, the lakefront, belongs to all of us. I often hear talk that seeks to correlate length of residency to weight of input in city matters thrown around by some, typically those who speak of control. They seem to forget that our city is one steeped in progressive care for all people, home to the Geneva Political Equity Club in the late 1800's and throngs of fierce brave people who changed this country, working through ideas and plans as they looked out at our lady Seneca's beauty. Change which came often by refusal and persistence. You don't have to look far for books to remind you that the lakefront has provided for the community since it's founding, and even when industries like the stage coach company utilized it directly, the people had a place on its shores. Hopefully this bicentennial carries with it love for the lake and a reflection on how it meets the needs of all of its

people, not just the boat owners and those that want to profit from it. You'd be wise to recall such history, listen to the voices of the past and future of this city. Actually hear what people, people you don't usually respect, hear what they have to say and feel! We could make freaking magic around here, and I shall remain hopeful that everyone's greatness can marinate together in the pot to do so soon. Thank you for reflecting on all you hear tonight.

8. CITY MANAGER REPORT

- Police Chief Search is ongoing. Currently a community survey is open for responses. No question on the survey is mandated. Feedback is welcomed in the City Manager's office.
- Director of Planning and Economic Development joins our team on July 31, 2023. David West will be joining us from Danby New York.
- 2024 Budget has launched. Departments are looking at reductions of 12%. This reduction will attempt to not raise the current tax rate. Staff will be developing plans which reduce services to meet this change.
- Zoning Meeting – July 10, 2023 at 6pm at Public Safety Building.

9. SECOND READING OF AN ORDINANCE AMENDING THE CITY CODE TO ADD CHAPTER 225 ENTITLED "LICENSING OF MOBILE FOOD ESTABLISHMENTS AND PUSHCARTS"

City Manager Hendrix presented the following ordinance for second reading:

Be it ordained by the City Council of the City of Geneva, NY that a new Chapter 225 entitled "Licensing of Mobile Food Establishments and Pushcarts" be added to the City of Geneva Municipal Code as follows:

Chapter 225

Article I

Mobile Food Service Establishments and Pushcarts

§ 225-1. Definitions

As used in this article, and the State Sanitary Code, Environmental Health Regulations subpart 14-4, the following terms shall have the meanings indicated unless the context clearly indicates that a different meaning is intended:

MOBILE FOOD SERVICE ESTABLISHMENTS - a motorized or self-propelled, self-contained food service operation, located in a vehicle, pushcart or a movable stand, self- or otherwise propelled, used to store, prepare, display or serve food intended for individual portion service.

MOBILE FOOD TRUCK – a motorized vehicle registered and able to be operated on the public streets of New York State, in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution.

FOOD TRAILER - a vehicle towed by another vehicle, registered and able to be operated on the public streets of New York State, in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution.

PUSH CART- a cart or barrow, manually propelled, used to vend food intended for individual portion service.

COMMISSARY – an establishment operated under license or permit of an appropriate regulatory authority where food is manufactured, stored, prepared, portioned or packaged, or any combination of these, where such food is intended for consumption at another establishment or place. It is also the place which is used as the base of operations for one or more mobile food service establishments or pushcarts, where such units are serviced, cleaned, supplied, maintained, and where the equipment, utensils and facilities are serviced, cleaned and sanitized.

DESIGNATED LOCATIONS – mobile food service establishment vendors who obtain a license per this section of the code will be assigned a location at the lakefront, on city property where their mobile food truck, food trailer or push cart may be parked during their license period when they are in operation.

VENDOR- An individual, firm, estate, partnership, company, corporation, trustee, association, or any public or private entity operating a mobile food service establishment.

§ 225- 2. General Provisions

- A. No mobile food service establishment or push cart shall operate within the public rights-of-way within the city without first having obtained from the City Clerk a valid Mobile Food Service Establishment License as prescribed in this article.
- B. Mobile food trucks shall not be greater than 35 feet in length and shall be registered as a motor vehicle or trailer and able to be operated on the public streets of New York State.
- C. Each mobile food service establishment must at all times carry on the vehicle a fire extinguisher and a measuring device with a measuring capacity of no less than 500 ft as a condition of its licensure. The failure of any mobile food service establishment to carry such fire extinguisher and a measuring device or abide by the proximity distance restrictions included in this article shall constitute a violation of this article.
- D. All mobile food service establishments must abide by all parking and vehicle and traffic laws, ordinances, rules and regulations at all times, including but not limited to any durational requirements in force and effect at that time and location.
- E. No mobile food service establishment shall operate within 100 feet of the closest point of any restaurant or sidewalk café seating area approved by the Department of Public Works.
- F. No mobile food service establishment shall operate within 500 feet of the boundary of any festival or special event that is permitted or sponsored by the city, except when the vendor has obtained a permit to so operate from the City of Geneva Events Coordinator.

- G. No mobile food truck, food trailer or push cart shall operate in a location that has the effect of obstructing access to or egress from any structure or the free flow of vehicular and pedestrian traffic.
- H. All food trucks and food trailers must be equipped with trash receptacles of a sufficient capacity that shall be changed as necessary to prevent overflow or the creation of litter or debris.
- I. Vendors are responsible for cleaning up any fluid, such as grease, gas, oil, etc., which leaks from their trucks, trailers or pushcarts.
- J. No vendor shall cry out or make loud noises for the purpose of selling any food or merchandise.
- K. No vendor shall make, continue, cause, or permit to be made or continued, any excessive noise. It shall be prima facie evidence of a violation of this section if noise emanating from any source, including, but not limited to, regular operation of the mobile food establishment or generator, is audible at a distance of 50 feet from the designated operating space from which it emanates during hours of operation.
- L. No vendor shall chain or otherwise attach any signs, goods, merchandise, chairs, stools or food cart or other equipment used in vending to any tree, hydrant, sign or post, light pole, telephone pole or other street appurtenance unless otherwise noted in this article.
- M. No vendor shall dispose of any litter or trash generated from the vending operation in public trash receptacles. Vendors shall store such litter or trash during the day in a trash receptacle firmly attached to the vending unit and carry the same with them at the end of the day. Vendors shall also be responsible for keeping the immediate area of their food truck, trailer or push cart free and clear of any litter, trash or spillage from the unit.
- N. No vendor shall conduct any vending activities in violation of any rule or regulation promulgated by the Chief of Police, the Development Services Manager or by the local Health Department with respect to vending of food or food products. See § 225- 7 regarding revocation of license.
- O. Mobile food trucks, trailers, pushcarts, tables, chairs and trash containers cannot be left overnight nor left unattended and are the responsibility of the owner, and the City of Geneva cannot be held liable for damage or stolen property.
- P. Designated areas at the lakefront will be chosen along with the designated space in that area to be occupied by each mobile food establishment or pushcart during the hours of operation.
- Q. The City of Geneva reserves the right to relocate mobile food establishments based on city need with 30 days notice.

§ 225- 3. License Required for Designated Locations on City Property

- A. Any person desiring to operate a food truck, food trailer or push cart in one of five locations on city property shall make written application for such license to the City Clerk. The application for such license shall be on forms provided by the City Clerk, and shall include the following:
1. Name and address of each applicant and each corporate officer of the food truck, food trailer or push cart vending corporation, or owner of an unincorporated business.
 2. Address of the commissary used in the supply and preparation of food for this food truck, food trailer or push cart.
 3. A valid copy of all necessary licenses, permits or certificates required by the New York State Department of Health, and vendors must comply with all laws, rules and regulations of said department, including, but not limited to the State Sanitary Code, Environmental Health Regulations subpart 14-4.

4. A valid New York State Department of Motor Vehicles registration, vehicle insurance and valid driver's licenses of all vehicle operators.
5. A copy of a valid certificate of authority issued by the New York State Department of Taxation and Finance empowering the vendor to collect both the New York State sales tax and compensating use taxes.
6. A background check provided by the police department where the applicant resides. A license application may be denied by the Chief of Police if the background check demonstrates that the applicant has been convicted of criminal offenses that have a direct relationship to the license or that would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. Any decision to deny an application for this reason shall be made in compliance with Article 23-A of the Correction Law after considering the factors set forth in that law.
7. Within 10 days of the issuance of a license, the vendor will make an appointment with the Geneva Fire Chief's Office for an inspection of the mobile food truck, food trailer or push cart to determine that the vehicle meets applicable New York State Fire Codes and rules and regulations required by the Fire Chief. The Fire Chief is hereby authorized to promulgate such additional rules and regulations as may be necessary to assure the fire safety of vending units.

§ 225- 4. Insurance

Before any license authorized herein shall be issued, the applicant shall file with the city proof of insurance, issued by an insurance company licensed to do business in the State of New York and approved by the City Attorney as to form, which insurance must be kept continuously in force during the term of the license. At the time of application, applicants shall provide proof of insurance that extends for the entire license period. The insurance shall not be less than \$1,000,000 comprehensive/general liability insurance. Such insurance shall not expire, nor be canceled, altered or amended except on 10 days written notice to the City Clerk served personally or by certified mail. Municipal operations, employees and property shall not be excluded from coverage. The insurance must list the City of Geneva an additional insured party.

§ 225- 5. Form and Condition of License

Every food truck, food trailer or push cart vending license shall contain the following conditions:

- A. Each license shall be valid from April 1st thru October 31st of the issue year. In the event of unseasonable temperatures, vendors may request an extension of the license period during the remaining five months of the year. License fees shall not be prorated and no refunds given for any reason.
- B. The license shall not be transferable.
- C. The license is valid for one food truck, food trailer or push cart only.
- D. There shall be issued to each vendor a license to be permanently and prominently affixed in the vehicle.

§ 225- 6. Fees

- A. All vendors shall pay an annual fee as agreed upon by the Geneva City Council during the budget process.

B. Replacement licenses shall cost \$10 for each replacement license requested.

§ 225- 7. Revocation of License

A. The City of Geneva shall have the power to suspend or revoke a license granted or renewed pursuant to this Code for a violation by the vendor licensee, his or her agents or employees of any law, ordinance, rule or regulation of the State of New York or the City of Geneva relating to the conduct of the business or trade for which the license or permit was issued, for fraud or deceit in such business or trade or for making a material misrepresentation on a license application. The City of Geneva shall also have power to revoke summarily the license or permit of any person who pleads guilty to or is convicted of violating the laws of the State of New York or ordinances of the City of Geneva relating to the business or trade in which the licensee is engaged.

B. The City of Geneva shall revoke a license in the event that the bond or insurance policy filed at the time of application is canceled or has expired and the holder of the license or permit has failed to file a new bond or policy within 10 days after cancellation or expiration. No part of any license or permit fee shall be refunded in the event that said license is revoked or suspended for cause.

C. Failure to comply with the terms of a permit as issued by the City Clerk or with this chapter shall result in the denial of future applications for a Mobile Food Establishment License for one year.

§ 225- 8. Penalties for offenses

Violation of any provision in the code shall be punished by a fine of \$1,000. Each day any such violation shall continue shall constitute a separate violation.

§ 225- 9. Severability

If any provision of this chapter is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and continue in full force and effect.

This ordinance shall take effect immediately and in accordance with law.

City Manager Hendrix said that staff took input from council and community members to update the document they have before them tonight. She said it limits the locations to the lakefront only, but when staff met, we did add in additional locations at Bicentennial Park for council consideration. She said that language was added to the application for potential preference to WMBE members and city owned food establishments. She said the space at the lakefront will be one parking lot area that will be used for mobile food establishments and will take that away from the parking area.

When asked about the changes since the first reading and the addition of Bicentennial Park, City Manager Hendrix told council that staff made the changes per their direction at the May meeting and the Bicentennial Park locations are not included in the ordinance, but are being offered to show council that is

a possibility if they wanted to amend the ordinance tonight. She clarified that food truck rodeos would still operate in the city and be coordinated through Planning and Economic Development.

Clr. Burrall voiced his concern with using the word merchandise in the ordinance since the ordinance is a license for food vending. He asked what would happen if vendors started selling tee shirts and more. It was pointed out that the application requires vendors to include the items to be sold, and staff can notify them when items are listed that are not food. Clr. Camera said he feels this needs to be approved, and council can tweak it later or adjust as they go. He said he supports this ordinance without Bicentennial Park added.

Clr. Salamendra said she supports this as she came up working in restaurants and does not believe in a system where only property owners can work for themselves. She said she is siding with the people, and they want food trucks.

Clr. Regan said that she feels that food trucks and restaurants are very different and feels they provide different needs. She said that limiting this to the lakefront is a good compromise. She said she hopes this provides an experience for us and adds to our tourism.

Clr. Pealer said he has been trying to get mobile vending in our city since last August, and he even met with the BID. He said that part of his plan was to create zones to test this along with certain times of the year. He said he feels people at the lakefront want to stay there, and he does not want Bicentennial Park added. He said he is interested in tabling this discussion to get more information.

Clr. Brimm said he agrees with the idea of tabling as the summer season is already here. He said he would like to see BID do more rodeos while we improve this ordinance. Mayor Valentino said that as written, this ordinance does not have his support saying that he feels we need to be cautious as the impacts are unknown.

Clr. Salamendra said she is frustrated that councilors are considering tabling this ordinance saying that council cannot keep pushing complicated subjects down the road. Clr. Noone said he fully supports this ordinance, and he does not want to waste staff time as this is months overdue. He suggested speaking to brick and mortar restaurants at some point to see if they can see a true impact.

ACTION TAKEN by Mayor Valentino; seconded by Clr. Noone

MOVED THAT the meeting be recessed for approximately 5 minutes until the YouTube connection can be restored

MOTION CARRIED UNANIMOUSLY (8-1absent)

Clr. Burrall said that he cannot vote in favor of this because he has not seen a need to amend the current program. He said he is not anti-food truck, noting that the current process is working well. He said he met Rafael Diaz years ago when his food truck business was successful serving lunch at Seneca Foods everyday where workers could not go out to eat lunch. He said we do not have a food desert at the lakefront. He referred to Sampson State Park having nine food trucks when they have large events and their one concession stand cannot accommodate. He said he sees more disadvantages than advantages, especially that we spent a lot of money to connect the lakefront to the downtown. He said that all successful businesses thrive on competition, and that is why they are thriving, because they are really good at what they are doing.

ACTION TAKEN by Clr. Pealer; seconded by Clr. Regan

MOVED THAT this ordinance be approved for second reading

ROLL CALL VOTE: Aye – Clr. Camera, Clr. Regan, Clr. Noone, Clr. Salamendra and Clr. Brimm

Nay - Mayor Valentino, Clr. Pealer, and Clr. Burrall

Absent - Clr. Gaglianese

MOTION CARRIED

10. RESOLUTION SCHEDULING A PUBLIC HEARING FOR A LOCAL LAW TO REDUCE THE PLANNING BOARD MEMBERSHIP

City Manager Hendrix presented the following resolution:

WHEREAS, Section 13.3 subdivision 1 of the Geneva City Charter, approved by referendum, effective January 1, 1974, as amended thereafter, states that the Geneva City Planning Board shall consist of nine (9) members, and

WHEREAS, reaching a quorum of five (5) members in attendance at meetings of the Geneva City Planning Board has been difficult, and

WHEREAS, General City Law Section 27 subdivision 1, authorizes creation of a City Planning Board consisting of five or seven members.

WHEREAS, reducing the number of members of the Geneva City Planning Board from 9 to 7 would facilitate the operation of the Planning Board and align its membership with General City Law Section 27 subdivision 1.

NOW, THEREFORE BE IT RESOLVED that a public hearing be held on August 2, 2023 at 7:00 p.m. pursuant to the Municipal Home Rule Law concerning proposed local law # 2-2023 submitted herewith.

ACTION TAKEN by Clr. Camera; seconded by Clr. Noone
MOVED THAT this resolution be approved
MOTION CARRIED UNANIMOUSLY (8-1absent)

11. RESOLUTION ESTABLISHING A PUBLIC HEARING FOR THE RENEWAL OF THE CABLE FRANCHISE AGREEMENT BETWEEN SPECTRUM NORTHEAST LLC AND THE CITY OF GENEVA

City Manager Hendrix presented the following resolution:

WHEREAS, Spectrum Northeast, LLC, an indirect subsidiary of Charter Communications, Inc is requesting the renewal of the Cable Franchise for a 15-year period; and

WHEREAS, the Geneva City Council finds that Spectrum Northeast, LLC has substantially complied with the material terms and conditions of its existing franchise and with applicable law; Spectrum Northeast, LLC has the financial, legal and technical ability to provide these services, facilities and equipment as set forth in its proposal; and Spectrum Northeast, LLC can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

NOW, THEREFORE BE IT RESOLVED, that a public hearing for the renewal of the Cable Franchise with Spectrum Northeast, LLC be held at the regular City Council meeting on August 2, 2023.

City Comptroller Newcomb explained that this is just a renewal of the current agreement we have with Spectrum, and the franchise is not restricted to just them. She said the city recoups a 3% fee with this agreement allowing them to put up the infrastructure in order to provide the service to residents.

Mayor Valentino referred to the poles being replaced and NYSEG saying that there are other companies that need to remove their wires from the old pole before it can be removed. He asked if we could get a timeline for when the old poles will be removed as residents are asking.

ACTION TAKEN by Clr. Salamendra; seconded by Clr. Pealer
MOVED THAT this resolution be approved
MOTION CARRIED UNANIMOUSLY (8-1absent)

12. FIRST READING OF AN ORDINANCE AMENDING CHAPTER 256 ENTITLED "PEDDLING AND SOLICITING"

City Clerk Guinan presented the following ordinance for first reading:

Be it ordained by the City Council of the City of Geneva, NY that Chapter 256 entitled "Peddling and Soliciting" of the City of Geneva Municipal Code be amended as follows:

1. Article I, section 256-9 is hereby repealed and replaced with the following:

"section 256-9 Issuance of Licenses

All licenses shall be numbered in order of issuance and shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the number of the license, the date of issuance and expiration of the license, fee paid and the name and address of the licensee."

2. Article I, section 256-12 (A) is hereby repealed and replaced with:

"section 256-12 (A)

Fees for licenses issued under this Article shall be determined by the Geneva City Council during budget adoption."

This ordinance shall take effect immediately and in accordance with law.

City Clerk Guinan told council that this ordinance is just to clean up some of the wording in the city code and remove the fees. She told council that the fees will be in the 2024 budget proposal for their approval.

ACTION TAKEN by Clr. Camera; seconded by Clr. Brimm
MOVED THAT this ordinance be passed for first reading
MOTION CARRIED UNANIMOUSLY (8-1absent)

13. RESOLUTION CENSURING GENEVA CITY COUNCILOR, WILLIAM PEALER

Clr. Camera presented the following resolution:

WHEREAS, Geneva City Councilor William Pealer posted public comments on Twitter that used abusive language directed against the LGBTQ+ community. Four of these tweets have been Included in an addendum to this Resolution of Censure ("Addendum"), and

WHEREAS the City of Geneva has adopted a Code of Ethics consisting of seventeen tenets of good conduct for public officials and employees of the City (hereinafter referred to as "Tenets"), and

WHEREAS Councilor Pealer signed the City's Ethics Pledge in which he agreed to adhere to the Tenets, and

WHEREAS Tenet 1 of the Geneva City Code of Ethics reads as follows:

ACT IN THE PUBLIC INTEREST

Recognizing that stewardship of the public Interest must be their primary concern. Public Officials will work for the common good of the people of Geneva and not for any private or personal Interest. They will assure fair and equal treatment of all persons, claims, and transactions appearing before Public Officials, and

WHEREAS, Tenet 3 of the Code of Ethics reads, in pertinent part, as follows:

CONDUCT OF PUBLIC OFFICIALS

The professional and personal conduct of Public Officials must be above reproach and avoid even the appearance of impropriety, and

WHEREAS, in 2023, Councilor Pealer authored numerous posts on Twitter that used inflammatory rhetoric that engendered gross stereotypes about the LGBTQ+ community, four of which have been included in the Addendum attached to this Resolution of Censure, and

WHEREAS, as one example, the language of one such post reads, in pertinent part:

"'Love is love', is sick code for the advocacy of sexual deviance and depravity", and

WHEREAS, "love is love" is a phrase introduced by the LGBTQ+ community in the early 2000s as part of the efforts to win marriage equality by emphasizing that the love shared and expressed by legally consenting individuals is valid regardless of their sexual orientation or gender identity, and

WHEREAS, the posts contained in the Addendum individually demonstrate abusive language directed at the LGBTQ+ community, and

WHEREAS, Councilor Pealer not only refused to apologize but refused to meet with LGBTQ+ community members (a protected group) - including residents from the City of Geneva - or accept their offer for sensitivity training after they voiced their anger, distress, and/or distrust regarding said posts both in writing and during the Public Comment period(s) of the Geneva City Council ("Council") meeting held on June 7, 2023, and

WHEREAS, these LGBTQ+ community members and their allies have urged the Council to censure Councilor Pealer for his abusive language directed at the LGBTQ+ community.

THEREFORE, NOW, BE IT RESOLVED that the Geneva City Council censures City Councilor William Pealer for abusive language directed at the LGBTQ+ community.

Clr. Camera said he had some assistance in preparing this resolution and feels it is a good resolution.

Clr. Salamendra said that she will be voting in favor of this resolution stating that she resents that queer people had to share their pain in order for council to act. She said that Clr. Pealer refused the conversations and she feels this censure will be a mark on his permanent record. She said he is still writing things on the internet that are transphobic and homophobic, and she feels it would be unconscionable to not censure.

Clr. Camera said he supports this resolution as a matter of Democracy and support of the US constitution which is a political document that is the politics of inclusion. He said it makes no sense not to approve this censure, and he feels council needs to stand for our citizens. Clr. Regan said that we are speaking for individuals who have had to hide who they are for fear of harassment, bullying or worse. She said the comments made were not original and they are inexcusable. She said that Genevans celebrate our diversity, and we want Geneva to be welcoming and safe for all, noting that our LGBTQ+ neighbors have been here for a long time and deserve to live here comfortably. She said she is sorry we have had to go through this and she is sad for our LGBTQ+ neighbors and friends.

Mayor Valentino said that the resolution is well written, noting that the councilor who offered the resolution has violated the code of ethics more than any other councilor. He said he finds it interesting the council was given a determination from the Board of Ethics for another councilor and five members of this council decided not to support that censure. He said council members seem to leverage the ethics tenets when they want to, and ignore them when they don't want to. He said if this had been presented to the Board of Ethics, and Clr. Pealer was given the opportunity to have his say with the Ethics Board, and then a determination came to this council to censure Clr. Pealer, he could support that. He said he respects that board, and unfortunately that board was not respected in the past.

Clr. Noone said he wanted to repeat his comments that were put in the newspaper saying that when he made those comments, he had not yet seen the posts. He said we must ensure the members of the LGBTQ+ community and all of our neighbors feel safe and comfortable in Geneva. He said it is important we maintain open dialogue about all issues, learn from one another, and strive to treat everyone equally. He thanked those who have lived this life, not those who claim to know what it's like to live this life, and who chose to come here and share their stories with us. Clr. Noone said he does not like that people say he is against the LGBTQ+ community because of the way he votes, nor does he like being bullied by

those who have not lived this life. He said he appreciates the people who come and truly want to make a difference and not the ones who come looking for a fight, use vulgar language and gestures, and video tape just to use it against someone in the future. He said he believes in those people who truly want change, and that is why he supports this resolution tonight.

Clr. Pealer said that he heard the stories last month and how awful it was for some of the people to come out noting their families were pretty awful to them. He noted something he took away from the speakers which is adjacency is a fallacy. He said the pedophilia talk is what kicked this off saying that it was a piece of wall art on the wall in the home of two people charged with 17 counts. He said any narrative associating what he said with the entire community, singular or group is made up by his political foes. He said he is grateful for his friends and family and their support. He said that ultimatums don't really speak to tolerance. He said that this censure is built on a premise that is constructed. He said he feels bad that people are being triggered by this, but they should talk to the person who upset them.

Clr. Burrall said that he wakes up every morning a grateful person and every meeting he has learned something about people. He said he wished council could stick to the agenda item in front of them. He said that email should stand for evidence mail or eternity mail because when you hit send, the information is out there forever. He said that people need to think about what they put on the internet, because it will be there for an eternity.

ACTION TAKEN by Clr. Camera; seconded by Clr. Regan

MOVED THAT this resolution be approved

**ROLL CALL VOTE: Aye – Clr. Camera, Clr. Regan, Clr. Noone, Clr. Salamendra, Clr. Burrall,
and Clr. Brimm**

Nay - Mayor Valentino and Clr. Pealer

Absent - Clr. Gaglianese

MOTION CARRIED

14. RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN TRILLIUM HEALTH AND THE CITY OF GENEVA FOR A NARCAN VENDING MACHINE

City Manager Hendrix presented the following resolution:

WHEREAS, Trillium Health has been distributing Narcan to the Geneva Community for several years; and

WHEREAS, NYS Matters has partnered with Trillium Health to provide additional resources for Narcan across New York State; and

WHEREAS, NYS Matters and Trillium Health have identified the City of Geneva transportation hub located at 372 Exchange Street as a site for a Narcan vending machine at no cost to the City; and

WHEREAS, said vending machine will be stocked and supplied by NYS Matters and Trillium Health with fentanyl test strips and Narcan;

NOW, THEREFORE, BE IT RESOLVED by the Geneva City Council that the City Manager is hereby authorized to sign and execute an agreement with Trillium Health to place a Narcan vending machine at the transportation hub.

City Manager Hendrix explained that Trillium is part of New York Matters, and they are working in partnership to distribute Narcan vending machines throughout New York State. They would like to place one in Geneva, and they would be responsible for loading and maintenance. The city's only responsibility would be electric to the machine at a minimal cost.

ACTION TAKEN by Clr. Regan; seconded by Clr. Brimm
MOVED THAT this resolution be approved
MOTION CARRIED UNANIMOUSLY (8-1absent)

15. MAYOR AND COUNCIL REPORTS

Clr. Brimm said he has a ½ truck of wood coming for Clr. Burrall and the wood sales.

Clr. Salamendra said that one of her colleagues is attending the meeting tonight virtually in violation of Local Law 2022-4 D that says a councilor can request virtual attendance within 72 hours of a meeting. She said she is disturbed by the double standard as she had a medical condition and submitted a letter from her doctor explaining that she would be unable to attend meetings in person. She said it was her understanding that this was a standing request for Zoom access for every meeting, but the mayor denied her access to meetings. She said that when she tried to attend a meeting in person against the medical advice of her doctor, the mayor attempted to refuse her access and violated the HIPAA Law. She said she is glad her colleague was able to attend virtually tonight, but she feels the mayor is selectively deciding when to follow the law and when to break it, and he must be held accountable.

Clr. Camera said he was disappointed that the vote for censure was not 100%. He said he feels that a community that does not support our LGBTQ+ community does not necessarily represent a home for businesses looking for locations. He said, finally the transportation committee for the Finger Lakes Railroad and the Genesee Transportation Council did meet and established a schedule, agenda, and stakeholder process allowing people from the community to join them and provide input. They have tentatively said that they are going to have a final report next June.

Clr. Burrall said that every time there is an emergency, people are being called to consider donating blood, noting that there is a huge demand for blood. The next opportunities for people to give blood will be July 11th at the VFW in Waterloo from 1-6, July 21st at Geneva General Hospital from 10-3, July 25th at the Bristol Fieldhouse on the HWS Campus from 1-7, July 26th at the American Legion in Phelps from 12-5, August 4th at Friendly Ford from 12-5. He said the BID announced that the Cruisin' Night was financially successful and socially profitable by bringing out so many people in downtown Geneva. He said the Garlic Festival will be a massive undertaking for the BID, and will be August 5th and 6th. He said he hopes to see many food truck vendors at the festival. He said he has \$135 from firewood sales for the Shadetree Committee.

Clr. Regan thanked all of the speakers tonight. She said Geneva Music Festival finished off their season, the Rose Soiree had quite an amazing night in Pulteney Park, and the Finger Lakes Excursion Riesling Wine Conference was recently held. She said these are just wonderful events that lift Geneva. Upcoming is the Musselman Race on July 9th. She said she spoke in Clr. Camera's place at a rally that marked the one-year decision to deny the air permits to Grenich Generation. She said the Green Committee met along with members of the Geneva High School Green Club, and they discussed the integrated pest management conference. She said Heat Smart, which is an initiative this council passed to help residents get more efficient in green kinds of heating and cooling, is moving forward. She said residents will see them at the farmer's market as part of their outreach.

Clr. Pealer said the Recreation Board met this month with most of their conversation being about the upcoming budget. They moved their meetings to the third Tuesday of the month. He extended a thank you to Wes Greco and members of city staff for installing the new disc golf targets. He wished all of our residents a Happy Fourth of July. Lastly, he reminded everyone that a republic is based on individual liberties and the rule of law. He said that when we start pitting groups against each other, it erodes those individual liberties.

Clr. Noone said that tomorrow night is the Geneva Red Wings game at McDonough Park with the naming of the field in honor of former Sixth Ward Councilor, John Salone. He asked when council can get a work session together to discuss the housing plan. Mayor Valentino asked council to look at their calendars for August.

Mayor Valentino referred to the Musselman on Sunday reminding everyone that it gets busy down by the lake and out toward East Lake Road. He said that Friday and Saturday at our Recreation Center will be the St. Francis/St. Stephens Festival with Saturday night being our fireman's parade at 7:00pm.

16. EXECUTIVE SESSION

ACTION TAKEN by Clr. Noone; seconded by Clr. Brimm

MOVED THAT council adjourn to executive session at 10:13pm to discuss a personnel matter

ROLL CALL VOTE: Aye – Clr. Camera, Clr. Regan, Clr. Noone, Clr. Burrall, Clr. Brimm,
Mayor Valentino and Clr. Pealer

Nay - Clr. Salamendra

Absent - Clr. Gaglianese

MOTION CARRIED

17. ADJOURNMENT

ACTION TAKEN by Clr. Noone; seconded by Clr. Brimm

MOVED THAT the meeting be adjourned at 10:30pm

MOTION CARRIED UNANIMOUSLY (7-2absent)

Lori Guinan

City Clerk

THE GENEVA CITY COUNCIL
JOURNAL OF PROCEEDINGS
SPECIAL COUNCIL MEETING

July 10, 2023 – 6:00 PM

Public Safety Building
255 Exchange Street
Geneva, NY 14456

Presiding – Steve Valentino, Mayor

1. ROLL CALL

Present: Clr. Regan, Clr. Gaglianese, Clr. Camera, Clr. Brimm, Clr. Noone, Clr. Pealer,
Clr. Burrall (arrived at 6:06pm) and Clr. Salamendra (arrived at 6:18pm)

2. RESOLUTION APPOINTING CITY CLERK

Mayor Valentino presented the following resolution:

WHEREAS, beginning in the spring of 2023, the City Council engaged in a rigorous selection process for the position of City Clerk; and

WHEREAS, eight applicants applied for the position; and

WHEREAS, of these applicants, Nicole Wright showcased the knowledge, skills, and abilities necessary to fill the position effectively and add value to the organization and to the community.

NOW, THEREFORE, BE IT RESOLVED that the Geneva City Council, hereby and in due form does appoint Nicole Wright to the position of City Clerk for the City of Geneva, effective July 31, 2023 with an annual salary of \$70,000 and participation in the Management Benefits Package; and directs the City Manager to take necessary actions to affect the same.

Clr. Noone asked about residency requirements, and Mayor Valentino said that Human Resources will take care of all of the verifications that need to be made before the formal appointment takes place. Mayor Valentino thanked the City Manager and the HR Director for scheduling and taking part in the interviews.

ACTION TAKEN by Mayor Valentino; seconded by Clr. Noone
MOVED THAT this resolution be approved
MOTION CARRIED UNANIMOUSLY (7-2 absent)

3. ZONING WORKSESSION

Neal Braman said that the consultants were hired and were $\frac{3}{4}$ of the way thru writing this entire document when they left Barton and Loguidice, so city staff took over, and when those staff members left the city, the plan fell to him. He said that the plan was reviewed by the Historic Districts Commission, the Business Improvement District, the Local Development Corporation, and the Industrial Development Agency. All of them voiced their concerns with the Business Improvement District having the most comments. He said that the majority of concerns were addressed with some of the language being an issue. He said there are some concerns with the placement of the words shall and should. He said he reviewed the intent with the BID to clarify, but the biggest issues are the shall vs should wording. He added that the short-term rental section needs to be buttoned up. Mr. Braman said that once council adopts the zoning update, it will need to go to the County Planning Board for their comments, but council should try to get it where they want it before it goes to the county for comments. He said it will also go to our Planning Board for a reading and vote.

Clr. Gaglianese asked if because of the delay, there were any additional costs to the city. Mr. Braman said that there were not, but noted because it went beyond the time, the \$15,000 agreed upon price to go to Barton and Loguidice for additional questions was zeroed out. Clr. Gaglianese questioned if the update will need to go before the public again since it is almost two years later.

City Manager Hendrix told council that they can do their due diligence, but there will be variances as soon as it passes. She said we will not get perfection. She said it makes sense to put this before the public, but we would need time for the public to review and additional time to review the public comments.

Clr. Camera said development is our future, and he would like to focus on some big items. He brought up a large residential lot shoe-horned in the draft in the wrong place in the mixed-use residential section, saying this should be single family residential. He said the real concern is this is most impactful as council addresses Air B&Bs which will affect development. He said he would like to focus on large lot development and Air B&Bs.

Clr. Burrall said that looking at the 5th or 6th revision of this plan, council did have a public hearing on this working document. He said that this will always be in flux depending on whatever projects or any changes of ownership may come into the city. He said that another public hearing will bring a specific couple of people who want to hone in on a specific item. He said council needs to get on track as zoning is always in flux, and there is a process to amend later.

Clr. Regan said it is her understanding that the current zoning map is not up to date with historic overlays. She said it would be good to hone in on a few big-ticket items. Mr. Braman noted that the current historic overlay currently goes to the former American Legion property, and the Historic Districts Commission would like that changed. He said that will be addressed.

Clr. Salamendra said she is not okay with delaying voting on this as the comprehensive plan asked for two things; an Economic Development Task Force, which never happened, and to pass a zoning update.

Clr. Camera referred to the multi-family section, Article 350-3.2(c) on page 3 of 50 saying that this is taking about some very big lots, and big expanses of unbuilt land. He said that if council looks at the zoning map, it's the least built-up section of our city and where any future growth can occur. He said we are taking 1/6 of the city offline for development. He said he feels this means we would be asking the other five wards to pay for taking this out of circulation. He said he believes we can protect privacy, but it should be done with a lot less unincumbered land. He said there could be buffer zones to allow the rest to be developable.

Clr. Regan said this area can be compared to what is along Middle Street, and can have more dense housing such as townhomes or row houses. She added that housing requiring less care are more in demand.

Clr. Gaglianese said that if a developer wanted to develop this parcel, they would need to go through the Planning Board for a special use permit, so he does not understand why it matters what it is labeled. Mr. Braman said that this has a less dense potential with 2 rights of way coming out at Slosson Lane, noting that there was an opposition to townhomes.

Clr. Salamendra said that she does not see businesses knocking down our door to come to our city, so housing is our economic development. She said that catering to the wealthy elite sends the wrong message that council is not hearing the entire city.

Clr. Burrall said that he would like to make a clarification about the public rights of way. He said that Hobart and William Smith Colleges bought the parcels and subdivided the two entry points. He said that there is now no access from Slosson Lane, and the only one is on Jay Street which is hard to get to. He said that the majority of land council is discussing is owned by Hobart and William Smith Colleges or private individuals. He added that anyone can go before the Planning Board and get the property changed to high density residential noting they will need to get utilities run. He said he feels council is better off moving to the next topic.

Clr. Camera said that council needs to express their intention that this be mixed use development. He asked if council wanted to see this section of the city share the some of the financial revenue burden with the rest of the city. He said that a city is not defined by large lots, but rather a place where there is more contact with the residents. He said that is why he feels council needs to express that definition into some of these outlying areas. He said the mixed residential use definition should be applied to at least the southern portions. He said there is a lot of opportunity for development and growth here with tax revenue increases.

Clr. Salamandra asked if it doesn't matter what the property is zoned, they why should council vote to do it another way. She said she feels people in her ward are leaving in mass exodus because there is no

housing, so if council is pro-development, then they should be for it on Slosson Lane as well. She said she sees no reason to not make a change to what her and other councilor's intentions are, as she feels that more housing is best for the city.

Clr. Regan said that these arguments can be used both ways, so why not get some developers, and not require them to do the extra work or getting variances. She said the entire area should be zoned in a way that says we are looking for development.

Clr. Gaglianese said that a private developer would come in and pay to get the property ready for development, noting that if not done by the developer, the cost of infrastructure to the city would be too much.

Clr. Salamendra asked to clarify that she is not trying to get the document changed to what she wants, but rather what the experts originally gave us. Clr. Camera said that council needs to express what they want for our residents and what will work here.

Clr. Noone said he agrees with Clrs. Salamendra and Camera saying that this is a great analysis of this property, and as we look forward to economic development, we should have less barriers for developers. He said that the rest of the city should not suffer if a few people do not want development near them.

Mayor Valentino asked for a straw vote on who would like to change this section to mixed use residential. Mr. Braman added that a large lot residential would be a minimum lot of 20,000 sq ft, and a mixed use residential would go to 3,000 sq ft. Clrs. Salamendra, Camera, Noone and Regan said they were in favor of changing with Clrs. Burrall, Pealer, Gaglianese and Mayor Valentino being against the change. Clr. Brimm said he had no direction on the matter. It was decided that the section would remain the same. Mayor Valentino said he reached out to Senator Helming, Assemblyman Gallahan, and Senator Schumer to see about funding assistance to put the infrastructure on this property to make it more attractive to developers.

Mayor Valentino said that the next issue for council to discuss is the use of the words should and shall in the document, noting that they have very different meanings. He pointed out Article 10, page 17 of 51 showing the different places in the document where these words are used. Mr. Braman said that for the new build section of the code, the shall wording would work fine, but where the problems come in is with the existing builds and any remodeling saying that the entire building shall be brought up to code. Mayor Valentino asked each councilor to go through this section and see if they feel any changes are needed. He told them to email the city manager and Mr. Braman by July 24th with their changes.

Clr. Burrall said council should be trying to make this more business friendly by using should rather than shall, noting that the BID had their own consultants look at this and give their opinions. Clr. Salamendra said she feels our consultants are giving the best practices. She said she cares about people who have to live in housing rather than businesses.

Clr. Noone said he feels council should get this right noting that he has an issue with delaying anymore. He said council needs to listen to the experts and then tweak this as we go along.

Mayor Valentino said he has an issue with 350-10.2 A(3) and the use of the word shall. He said he is not a fan of this due to the recent storms with his concerns being on stormwater regulations.

Clr. Noone said that he would like to take out the short-term rental part if there are concerns. He asked what grandfathering in would look like as well as giving precedent to people living nearby with regard to communication. He added that he feels a lot of code issues do not get addressed, and it continues to be complaint-based. He said we need to be more proactive and enforce the codes that are on the books. He questioned if the current code office has the ability to handle these new ordinances.

Clr. Regan said that she is mixed on grandfathering and asked how the city would address no parking on a property or any other issues. She said she feels this is a start, and council could add to it later.

Clr. Salamendra said she would like to see short-term rentals dealt with as soon as possible, and she is reluctant to take it out of this document. She said it makes no sense to grandfather in certain people, especially without some sort of registry to get in touch with the owner. She does not want people renting without regulations and causing problems with other residents.

Mayor Valentino said he would like to add in an element with regard to code violations where any short-term rental that receives three or more police nuisance calls within a 30-day period would have their license suspended for 60 days. He said he feels this will keep the owners of the property in check. Clr. Salamendra offered in to include founded police complaints. Mayor Valentino said he would like the parking requirements to mirror what is in the Bed and Breakfast regulations.

Clr. Salamendra said she would like the registration fee to be directly proportionate to the rates charged. City Manager Hendrix said that council will vote on the fees as part of the budget process. She also said she would check with legal on the process for taking this out of the update for later approval.

4. ADJOURNMENT

**ACTION TAKEN by Clr. Gaglianese; seconded by Clr. Brimm
MOVED THAT the meeting be adjourned at 7:58pm
MOTION CARRIED UNANIMOUSLY**

Lori Guinan

City Clerk



Geneva City Council Agenda Item Briefing

To: Geneva City Council

From: Lori Guinan, City Clerk

Meeting Date: August 2, 2023

Item Title: Second Reading of an Ordinance Amending Chapter 256, Entitled "Peddling and Soliciting" of the City of Geneva Municipal Code

Action Required:

Amend Geneva City Code Section 256 to amend procedure for processing and remove licensing fees.

Background:

Staff has begun the practice of removing fees from the city code to allow for updates to be made without needing to pass an ordinance with two readings. All fees will be included in the 2024 budget proposal requiring council approval.

Financial Impact:

Fees will be increased to be competitive with other municipalities, but impact will depend on the number of licenses issued.

Office of the City Clerk

Lori Guinan

CITY HALL- 47 CASTLE STREET- GENEVA, NEW YORK 14456

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ORDINANCE # 7 - 2023

AN ORDINANCE AMENDING CHAPTER 256 ENTITLED "PEDDLING AND SOLICITING"

Be it ordained by the City Council of the City of Geneva, NY that Chapter 256 entitled "Peddling and Soliciting" of the City of Geneva Municipal Code be amended as follows:

1. Article I, section 256-9 is hereby repealed and replaced with the following:

"section 256-9 Issuance of Licenses

All licenses shall be numbered in order of issuance and shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the number of the license, the date of issuance and expiration of the license, fee paid and the name and address of the licensee."

2. Article I, section 256-12 (A) is hereby repealed and replaced with:

"section 256-12 (A)

Fees for licenses issued under this Article shall be determined by the Geneva City Council during budget adoption."

This ordinance shall take effect immediately and in accordance with law.



Geneva City Council Agenda Item Briefing

To: Geneva City Council

From: Amie Hendrix, City Manager

Meeting Date: August 2, 2023

Item Title: Local Law Reducing the Number of Members of the City Planning Board from nine to seven

Action Required:

If approved the number of planning board members will be reduced.

Background:

Staff, members from council who are liaisons to the Planning and Zoning Boards, and the City Attorney have reviewed the current operations of the Planning Board. Upon review it was brought to our attention that General City Law Section 27 subdivision 1 states, "The legislative body of each city, except a city having a population of more than one million, is hereby authorized by local law or ordinance to create a planning board consisting of five or seven members." To comply with this law and operate effectively as a board Council is being asked to reduce the number of board members from nine to seven and this public hearing is the first step.

Financial Impact:

None.

Office of the City Clerk

Lori Guinan

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LOCAL LAW # 2 - 2023

LOCAL LAW REDUCING THE MEMBERSHIP OF THE CITY PLANNING BOARD FROM 9 MEMBERS TO 7

BE IT ENACTED, by the City Council of the City of Geneva as follows:

Section 13.3 subdivision 1 of the Geneva City Charter, approved by referendum, effective January 1, 1974, as amended thereafter, is hereby further amended to reduce the number of members of the City Planning Board from 9 to 7.

Section I - Purpose

The purpose of this amendment to the City Charter is to facilitate reaching a quorum at meetings of the City Planning Board.

Reducing the number of members of the City Planning Board from 9 to 7 would align the membership of the Board with General City Law Section 27 subdivision 1.

Section II - Membership of the City Planning Board

The first sentence of Section 13.3 subdivision 1 of the Geneva City Charter, shall henceforth read as follows:

The Planning Board shall consist of seven (7) members appointed by the City Council, each for a term of three (3) years.

Section III - Effectuation of Reduction of the membership

Reduction of the membership of the Geneva City Planning shall take effect as directed in General City Law Section 27 subdivision 7, i.e. upon the next two expirations of terms. No incumbent shall be removed from office except upon the expiration of his or her term, except as provided by the City Charter.

Section IV - Effective Date

This local law shall become effective immediately upon adoption by a vote of the City Council



**Geneva City Council
Agenda Item Briefing**

To: Geneva City Council

From: Amie Hendrix, City Manager

Meeting Date: August 2, 2023

Item Title: Resolution Renewing the Cable Television Franchise Agreement between Spectrum Northeast, LLC and the City of Geneva

Action Required:

If approved by council, council will authorize the city manager to enter into an agreement between Spectrum Northeast, LLC and the City of Geneva to continue the relationship with Spectrum to reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

Background:

Staff have met to review the current agreement and to adopt this agreement with the Cable Franchise.

Financial Impact:

Franchise fees to be collected.

Office of the City Clerk

Lori Guinan

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CITY COUNCIL RESOLUTION # 25 - 2023

**IN THE MATTER OF THE RENEWAL OF THE CABLE TELEVISION FRANCHISE
HELD BY SPECTRUM NORTHEAST, LLC, IN THE
CITY OF GENEVA, COUNTY OF ONTARIO, STATE OF NEW YORK**

WHEREAS, an application has been duly made to the **City of Geneva**, (the "City") by **Spectrum Northeast, LLC**, an indirect subsidiary of Charter Communications, Inc. ("Charter"), a limited liability company organized and existing in good standing under the laws of State of Delaware doing business at 2604 Seneca Avenue, Niagara Falls, NY 14305, for the approval of an agreement renewing Charter's cable television franchise in the City for a period of fifteen (15) years commencing with the date of approval by the Public Service Commission, and

WHEREAS, the franchise renewal agreement would bring Charter's cable television franchise into conformity with certain provisions of the Federal Cable Communications Policy Act of 1984, as amended, and certain court rulings, and

WHEREAS, a public hearing was held in the City of Geneva, New York on August 2, 2023 at 7:00 P.M. and notice of the hearing was published in the Finger Lakes Times on July 25, 2023 and

WHEREAS, the Geneva City Council finds that:

1. Spectrum Northeast, LLC has substantially complied with the material terms and conditions of its existing franchise and with applicable law; and
2. Spectrum Northeast, LLC has the financial, legal and technical ability to provide these services, facilities and equipment as set forth in its proposal attached; and
3. Spectrum Northeast, LLC can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

NOW THEREFORE IT IS HEREBY RESOLVED THAT the Geneva City Council approves the renewal of the cable television franchise previously granted to Spectrum Northeast, LLC for a period of fifteen (15) years commencing with the date of approval of said franchise by the New York State Public Service Commission and expiring fifteen (15) years hence and it is

FURTHER RESOLVED that the Geneva City Manager is hereby authorized to execute the agreement renewing Charter's cable television franchise in good form, a copy of which is attached to this resolution.

FRANCHISE AGREEMENT

This Franchise Agreement (“**Franchise**”) is between the City of Geneva, New York, hereinafter referred to as the “Grantor” and Spectrum Northeast, LLC, an indirect subsidiary of CHARTER COMMUNICATIONS, INC., hereinafter referred to as the “Grantee.”

WHEREAS, in a full public proceeding affording due process to all parties, Grantor considered and found adequate and feasible Grantee’s plans for constructing and operating the cable television system, and Grantor considered and determined that the financial condition, character, legal and technical ability of the Grantee are sufficient to provide services, facilities and equipment necessary to meet the future cable-related needs of the community; and

WHEREAS, the Grantor finds that the Grantee has substantially complied with the material terms of the current Franchise under applicable laws, that this Franchise complies with New York Public Service Commission’s (“NYPSC”) franchise standards under Title 16, Chapter VIII, Part 895 of the Official Compilation of Codes, Rules and Regulations of the State of New York, and that the grant of a nonexclusive franchise to Grantee is consistent with the public interest; and

WHEREAS, the Grantor and Grantee have complied with all federal and State-mandated procedural and substantive requirements pertinent to this franchise renewal; and

WHEREAS, Grantor desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein;

***NOW, THEREFORE**, the Grantor and Grantee agree as follows:*

SECTION 1 **Definition of Terms**

1.1 Terms. For the purpose of this franchise the following terms, phrases, words and their derivations shall have the meaning ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time (the “Cable Act”), unless otherwise defined herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

- A. “Cable System,” “Cable Service,” and “Basic Cable Service” shall be defined as set forth in the Cable Act.
- B. “*Board*” shall mean the governing body of the Grantor.
- C. “Cable Act” shall mean the Cable Communication Policy Act of 1984, as amended, 47 U.S.C. §§ 521, et. seq.
- D. “Channel” shall mean a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel.

- E. “Equipment” shall mean any poles, wires, cable, antennae, underground conduits, manholes, and other conductors, fixtures, equipment and other facilities used for the maintenance and operation of physical facilities located in the Streets, including the Cable System.
- F. “FCC” shall mean the Federal Communications Commission and any successor governmental entity thereto.
- G. “Franchise” shall mean the non-exclusive rights granted pursuant to this Franchise to construct operate and maintain a Cable System along the public ways within all or a specified area in the Franchise Area.
- H. “Franchise Area” shall mean the geographic boundaries of the Grantor, and shall include any additions thereto by annexation or other legal means.
- I. “Gross Revenue” means any revenue, as determined in accordance with generally accepted accounting principles, received by the Grantee from the operation of the Cable System to provide Cable Services in the Franchise Area, provided, however, that such phrase shall not include: (1) any taxes, fees or assessments collected by the Grantee from Subscribers for pass-through to a government agency, including, without limitation, any state or federal regulatory fees, the franchise fee, or any sales or utility taxes; (2) unrecovered bad debt; (3) credits, refunds and deposits paid to Subscribers; (4) any exclusions available under applicable State law
- J. “Person” shall mean an individual, partnership, association, organization, corporation, trust or governmental entity.
- K. “Service Area” shall mean the area described in subsection 6.1 herein.
- L. “Standard Installation” shall mean installations to residences and buildings that are located up to 150 feet from the point of connection to Grantee’s existing distribution system.
- M. “State” shall mean the State of New York.
- N. “Street” shall include each of the following located within the Franchise Area: public streets, roadways, highways, bridges, land paths, boulevards, avenues, lanes, alleys, sidewalks, circles, drives, easements, rights of way and similar public ways and extensions and additions thereto, including but not limited to public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Grantor in the Franchise Area, which shall entitle the Grantee to the use thereof for the purpose of installing, operating, extending, repairing and maintaining the Cable System.
- O. “Subscriber” shall mean any Person lawfully receiving Cable Service from the Grantee.

SECTION 2

Grant of Franchise

2.1 Grant. The Grantor hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to erect, construct, extend, operate and maintain in, upon, along, across, above, over and under the Streets, now in existence and as may be created or established during its terms, all Equipment, including the Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal or State law.

2.2 Term. The Franchise and the rights, privileges and authority hereby granted shall be for an initial term *of fifteen (15) years*, commencing on the Effective Date of this Franchise as set forth in Section 15.13.

2.3 Police Powers. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance necessary to the safety, health, and welfare of the public, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. This Franchise is a contract and except as to those changes which are the result of the Grantor's lawful exercise of its general police power, the Grantor may not take any unilateral action which materially changes the mutual promises in this contract.

2.4 Restoration of Municipal Property. Any municipal property damaged or destroyed by Grantee shall be promptly repaired or replaced by the Grantee and restored to serviceable condition.

2.5 Cable System Franchise Required. No Cable System shall be allowed to occupy or use the streets or public rights-of-way of the Franchise Area or be allowed to operate without a Cable System Franchise.

SECTION 3

Franchise Renewal

3.1 Procedures for Renewal. The Grantor and the Grantee agree that any proceedings undertaken by the Grantor that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, or any such successor statute.

SECTION 4

Indemnification and Insurance

4.1 Indemnification. The Grantee shall, by acceptance of the Franchise granted herein, defend the Grantor, its officers, boards, commissions, agents, and employees for all claims for injury to any Person or property caused by the negligence of Grantee in the construction or operation of the Cable System and in the event of a determination of liability shall indemnify and hold Grantor, its officers, boards, commissions, agents, and employees harmless from any and all liabilities, claims, demands, or judgments growing out of any injury to any Person or property as a result of the negligence of Grantee arising out of the construction, repair, extension, maintenance, operation or removal of its wires, poles or other equipment of any kind or character used in connection with the

operation of the Cable System, provided that the Grantor shall give the Grantee written notice of its obligation to indemnify the Grantor within ten (10) days of receipt of a claim or action pursuant to this section. In the event any such claim arises, the Grantor shall tender the defense thereof to the Grantee and the Grantee shall have the right to defend, settle or compromise any claims arising hereunder and the Grantor shall cooperate fully herein. If the Grantor determines in good faith that its interests cannot be represented by the Grantee, the Grantee shall be excused from any obligation to represent the Grantor. Notwithstanding the foregoing, the Grantee shall not be obligated to indemnify the Grantor for any damages, liability or claims resulting from the willful misconduct or negligence of the Grantor or for the Grantor's use of the Cable System.

4.2 Insurance.

- A. The Grantee shall maintain throughout the term of the Franchise insurance in amounts at least as follows:

Workers' Compensation	Statutory Limits
Commercial General Liability	\$1,000,000 per occurrence, \$2,000,000 General Aggregate
Auto Liability including coverage on all owned, non-owned hired autos	\$1,000,000 per occurrence Combined Single Limit
Umbrella Liability	\$1,000,000 per occurrence

- B. The Grantor shall be added as an additional insured, arising out of work performed by Grantee, to the above Commercial General Liability, Auto Liability and Umbrella Liability insurance coverage.
- C. The Grantee shall furnish the Grantor with current certificates of insurance evidencing such coverage upon request.

SECTION 5 **Service Obligations**

5.1 No Discrimination. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, Channel users, or general citizens on the basis of race, color, religion, national origin, age or sex. Grantee shall not deny access to Cable Service to any group of potential residential subscribers because of the income of the residents of the local area in which such group resides.

5.2 Privacy. The Grantee shall fully comply with the privacy rights of Subscribers as contained in Cable Act Section 631 (47 U.S.C. § 551).

SECTION 6

Service Availability

6.1 Service Area. Subject to applicable law, the Grantee shall continue to provide Cable Service to all residences within the Franchise Area where Grantee currently provides Cable Service (the “Service Area”) in accordance with the provisions of Section 895.5 of the regulations of the NYPSC. Grantee shall have the right, but not the obligation, to extend the Cable System into any other portion of the Franchise Area, including annexed areas. Cable Service offered to Subscribers pursuant to this Franchise shall be conditioned upon Grantee having legal access on reasonable terms and conditions to any such Subscriber’s dwelling unit or other units wherein such Cable Service is provided.

6.2 Abandonment of Service. Grantee shall not abandon any Cable Service or portion thereof without the Grantor’s written consent.

6.3 New Development Underground. In cases of new construction or property development where utilities are to be placed underground, the Grantor agrees to require as a condition of issuing a permit for open trenching to any developer or property owner that such developer or property owner give Grantee at least thirty (30) days prior written notice of such construction or development, and of the particular dates on which open trenching will be available for Grantee’s installation of conduit, pedestals and/or vaults, and laterals to be provided at Grantee’s expense. Grantee shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring service to the development shall be borne by the developer or property owner; except that if Grantee fails to install its conduit, pedestals and/or vaults, and laterals within fifteen (15) working days of the date the trenches are available, as designated in the written notice given by the developer or property owner, then should the trenches be closed after the fifteen day period, the cost of new trenching is to be borne by Grantee.

6.4 Annexation. The Grantor shall promptly provide written notice to the Grantee of its annexation of any territory which is being provided Cable Service by the Grantee or its affiliates. Such annexed area will be subject to the provisions of this Franchise upon sixty (60) days ‘written notice from the Grantor, subject to the conditions set forth below and Section 6.1 above. The Grantor shall also notify Grantee in writing of all new street address assignments or changes within the Franchise Area. Grantee shall within ninety (90) days after receipt of the annexation notice, pay the Grantor franchise fees on revenue received from the operation of the Cable System to provide Cable Services in any area annexed by the Grantor if the Grantor has provided a written annexation notice that includes the addresses that will be moved into the Franchise Area in an Excel format or in a format that will allow Grantee to change its billing system. If the annexation notice does not include the addresses that will be moved into the Franchise Area, Grantee shall pay franchise fees within ninety (90) days after it receives the annexed addresses as set forth above. All notices due under this section shall be sent by certified mail, return receipt requested to the addresses set forth in Section 15.7 with a copy to the Director of Government Affairs. In any audit of franchise fees due under this Franchise, Grantee shall not be liable for franchise fees on annexed areas unless and until Grantee has received notification and information that meets the standards set forth in this section.

SECTION 7

Construction and Technical Standards

7.1 Compliance with Codes. All construction practices and installation of equipment shall be done in accordance with all applicable sections of the National Electric Safety Code.

7.2 Construction Standards and Requirements. Grantee shall construct and maintain its Equipment using materials of good and durable quality and shall ensure that all work involved in the construction, installation, maintenance, and repair of the Cable System shall be performed in a safe, thorough and reliable manner.

7.3 Safety. The Grantee shall at all times employ ordinary care and shall use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage.

7.4 Network Technical Requirements. The Cable System shall be designed, constructed and operated so as to meet those technical standards adopted by the FCC relating to Cable Systems contained in part 76 of the FCC's rules and regulations as may be amended from time to time. The Cable System shall provide for a minimum Channel capacity of at least seventy-seven (77) Channels.

SECTION 8

Conditions on Street Occupancy

8.1 General Conditions. Grantee shall have the right to utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits, or other facilities on public property provided Grantee is able to access existing poles, conduits, or other facilities on reasonable terms and conditions.

8.2 Underground Construction. The facilities of the Grantee shall be installed underground in those Service Areas where existing telephone and electric services are both underground at the time of system construction. In areas where either telephone or electric utility facilities are installed aerially at the time of system construction, the Grantee may install its facilities aerially with the understanding that at such time as the existing aerial facilities are required to be placed underground by the Grantor, the Grantee shall likewise place its facilities underground. In the event Grantor or any agency thereof directly or indirectly reimburses any utility for the placement of cable underground or the movement of cable, Grantee shall be similarly reimbursed.

8.3 Construction Codes and Permits. Grantee shall obtain all legally required permits before commencing any construction work, including the opening or disturbance of any Street within the Franchise Area, provided that such permit requirements are of general applicability and such permitting requirements are uniformly and consistently applied by the Grantor as to other public utility companies and other entities operating in the Franchise Area. The Grantor shall cooperate with the Grantee in granting any permits required, providing such grant and subsequent construction by the Grantee shall not unduly interfere with the use of such Streets. Notwithstanding the above, the Grantee may set off any administrative permit fees or other fees required by the Grantor related to the Grantee's use of Grantor rights-of-way against the franchise fee payments required under Section 10.1 of this Franchise.

8.4 System Construction. All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and at all times shall be kept and maintained in a safe, adequate and substantial condition, and in good order and repair. The Grantee shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

8.5 Restoration of Public Ways. Grantee shall, at its own expense, restore any damage or disturbance caused to the public way as a result of its operation, construction, or maintenance of the Cable System to a condition reasonably comparable to the condition of the Streets immediately prior to such damage or disturbance.

8.6 Tree Trimming. Grantee or its designee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities.

8.7 Relocation for the Grantor. The Grantee shall, upon receipt of reasonable advance written notice, to be not less than ten (10) business days, protect, support, temporarily disconnect, relocate, or remove any property of Grantee when lawfully required by the Grantor pursuant to its police powers. Grantee shall be responsible for any costs associated with these obligations to the same extent all other users of the Grantor rights-of-way are responsible for the costs related to the relocation of their facilities.

8.8 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Grantor, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Street as necessary any property of the Grantee, provided that the expense of such is paid by any such Person benefiting from the relocation and the Grantee is given reasonable advance written notice to prepare for such changes. The Grantee may require such payment in advance. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation and no less than one hundred twenty (120) days for a permanent relocation.

8.9 Reimbursement of Costs. If funds are available to any Person using the Streets for the purpose of defraying the cost of any of the foregoing, the Grantor shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Grantor shall make application for such funds on behalf of the Grantee.

8.10 Emergency Use. Grantee shall comply with 47 U.S.C. 544(g) and all regulations issued pursuant thereto with respect to an Emergency Alert System ("EAS").

SECTION 9 **Service and Rates**

9.1 Phone Service. The Grantee shall maintain a toll-free telephone number and a phone service operated to receive complaints and requests for repairs or adjustments at any time.

9.2 Notification of Service Procedures. The Grantee shall furnish each Subscriber at the time service is installed, written instructions that clearly set forth information concerning the procedures for making inquiries or complaints, including the Grantee's name, address and local telephone number. Grantee shall give the Grantor notice of any changes in rates, programming services or Channel positions in accordance with applicable law.

9.3 Rate Regulation. The rates and charges for Cable Service provided pursuant to this Franchise shall be subject to regulation in accordance with federal law. If and when exercising rate regulation, the Grantor shall abide by the terms and conditions set forth by the FCC. Nothing herein shall be construed to limit the Grantee's ability to offer or provide bulk rate discounts or promotions.

9.4 Continuity of Service. It shall be the right of all Subscribers to continue receiving Cable Service insofar as their financial and other obligations to the Grantee are honored, and subject to Grantee's rights under Section 15.2 of this Franchise.

SECTION 10 **Franchise Fee**

10.1 Amount of Fee. Grantee shall pay to the Grantor an annual franchise fee in an amount equal to three percent (3%) of the annual Gross Revenue. Franchise fees may be passed through to Subscribers as a line item on Subscriber bills or otherwise as Grantee chooses, consistent with federal law. The amount of franchise fee and the method of calculation shall be equal when compared to the amount or method of calculation of the franchise fee in any other cable franchise or authorization to provide video service granted by Grantor. In the event any other cable franchise or authorization to provide video service provides for a lesser franchise fee than this Franchise, Grantee's obligation to pay a franchise fee under this Section 10.1 shall be reduced by an equivalent amount.

10.2 Payment of Fee. Payment of the fee due the Grantor shall be made on a semi-annual basis, within forty-five (45) days of the close of each calendar year. The payment period and the collection of the franchise fees that are to be paid to the Grantor pursuant to the Franchise shall commence sixty (60) days after the Effective Date of the Franchise as set forth in Section 15.13. In the event of a dispute, the Grantor, if it so requests, shall be furnished a statement of said payment, reflecting the Gross Revenues and the applicable charges.

10.3 Accord and Satisfaction. No acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for additional sums payable as a franchise fee under this Franchise.

10.4 Limitation on Recovery. The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee was due.

10.5 No auditor engaged by the Grantor shall be compensated on a success based formula (e.g., payment based on a percentage of an underpayment, if any).

SECTION 11
Transfer of Franchise

11.1 Franchise Transfer. Grantee shall provide at least sixty days' notice to Grantor prior to completion of a transaction that results in the sale, transfer, or assignment of the Franchise. The Franchise granted hereunder shall not be assigned, other than by operation of law or to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Grantor, such consent not to be unreasonably withheld or delayed. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System to secure indebtedness. Within thirty (30) days of receiving a request for review covered by this Section, the Grantor shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Grantor has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Grantor shall be deemed given.

SECTION 12
Records

12.1 Inspection of Records. Grantee shall permit any duly authorized representative of the Grantor, upon receipt of advance written notice, to examine during normal business hours and on a non-disruptive basis any and all of Grantee's records pertaining to Grantee's provision of Cable Service in the Franchise Area maintained by Grantee as is reasonably necessary to ensure Grantee's compliance with the material terms of the Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Grantor. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Grantor agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Grantee makes the Grantor aware of such confidentiality. If the Grantor believes it must release any such confidential books or records in the course of enforcing this Franchise, or for any other reason, it shall advise Grantee in advance so that Grantee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Grantor agrees that, to the extent permitted by State and federal law, it shall deny access to any of Grantee's books and records marked confidential, as set forth above, to any Person.

SECTION 13
Public Education and Government (PEG) Access

13.1 PEG Access. Grantee shall make available channel capacity for non-commercial, video programming for public, educational and governmental ("PEG") access use in accordance with Section 895.4 of the NYPSC regulations and will comply with the minimum standards set forth therein. Such PEG channel capacity may be shared with other localities served by Grantee's cable system, and Grantor hereby authorizes Grantee to transmit PEG access programming authorized herein to such other localities. The tier of service on which such PEG channel(s) may be placed shall be determined by Grantee in accordance with applicable law.

SECTION 14
Enforcement or Revocation

14.1 Notice of Violation. If the Grantor believes that the Grantee has not complied with the terms of the Franchise, the Grantor shall first informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Grantor shall notify the Grantee in writing of the exact nature of the alleged noncompliance (the "Violation Notice").

14.2 Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the Violation Notice to (i) respond to the Grantor, contesting the assertion of noncompliance, or (ii) to cure such default, or (iii) if, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Grantor of the steps being taken and the projected date that they will be completed.

14.3 Public Hearing. If the Grantee fails to respond to the Violation Notice received from the Grantor, or if the default is not remedied within the cure period set forth above, the Board shall schedule a public hearing if it intends to continue its investigation into the default. The Grantor shall provide the Grantee at least twenty (20) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, notice of which shall be published by the Clerk of the Grantor in a newspaper of general circulation within the Grantor in accordance with subsection 15.8 hereof. At the hearing, the Board shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be revoked. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Board shall be made in writing and shall be delivered to the Grantee. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Board *de novo*. The Grantee may continue to operate the Cable System until all legal appeals procedures have been exhausted.

14.4 Enforcement. Subject to applicable federal and State law, in the event the Grantor, after the hearing set forth in subsection 14.3 above, determines that the Grantee is in default of any provision of the Franchise, the Grantor may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise itself in accordance with subsection 14.5 below.

14.5 Revocation.

- A. Prior to revocation or termination of the Franchise, the Grantor shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have sixty (60) days from

such notice to either object in writing and to state its reasons for such objection and provide any explanation or to cure the alleged noncompliance. If the Grantor has not received a satisfactory response from Grantee, it may then seek to revoke the Franchise at a public hearing. The Grantee shall be given at least thirty (30) days prior written notice of such public hearing, specifying the time and place of such hearing and stating its intent to revoke the Franchise. The public hearing shall be conducted in accordance with the requirements of Section 14.3 above.

- B. Notwithstanding the above provisions, the Grantee reserves all of its rights under federal law or regulation.
- C. Upon revocation of the Franchise, Grantee may remove the Cable System from the Streets of the Grantor, or abandon the Cable System in place.

SECTION 15

Miscellaneous Provisions

15.1 Compliance with Laws. Grantor and Grantee shall conform to all applicable state and federal laws and rules regarding cable television as they become effective. Grantee shall also conform with all generally applicable Grantor ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the Franchise. In the event of a conflict between Grantor ordinances, resolutions, rules or regulations and the provisions of this Franchise, the provisions of this Franchise shall govern.

15.1.1 Employment Practices. Grantee will not refuse to hire, nor will it bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions, or privileges of employment because of age, race, creed, color, national origin, or sex.

15.2 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes, but is not limited to, severe or unusual weather conditions, fire, flood, or other acts of God, strikes, work delays caused by failure of utility providers to service, maintain or monitor their utility poles to which Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

15.3 Minor Violations. Furthermore, the parties hereby agree that it is not the Grantor's intention to subject the Grantee to forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area, or where strict performance would result in practical difficulties or hardship to the Grantee which outweighs the benefit to be derived by the Grantor and/or Subscribers.

15.4 Action of Parties. In any action by the Grantor or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

15.5 Equal Protection. If any other provider of cable services or video services (without regard to the technology used to deliver such services) is lawfully authorized by the Grantor or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the Grantor, the Grantor shall ensure that the terms applicable to such other provider are no more favorable or less burdensome than those applicable to Grantee. If the authorization applicable to such other provider contains franchise fee, PEG, free service, right-of-way, or other terms imposing monetary or regulatory burdens that are less costly or less burdensome than the corresponding obligations imposed upon Grantee, Grantor shall, within thirty (30) days of a written request from Grantee, modify this Franchise to ensure that the corresponding obligations applicable to Grantee are no more costly or burdensome than those imposed on the new competing provider. If the Grantor fails to make modifications consistent with this requirement, Grantee agrees not to enforce such corresponding obligations in this Franchise beyond the requirements imposed by the less costly or less burdensome obligations in such competing provider's authorization. As an alternative to the equal protection procedures set forth herein, the Grantee shall have the right and may choose to have this Franchise with the Grantor be deemed expired thirty (30) days after written notice to the Grantor. Nothing in this Franchise shall impair the right of the Grantee to terminate this Franchise and, at Grantee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity. Nothing in this Section 15.5 shall be deemed a waiver of any remedies available to Grantee under federal, state or municipal law, including but not limited to Section 625 of the Cable Act, 47 U.S.C. § 545.

15.6 Change in Law. Notwithstanding any other provision in this Franchise, in the event any change to state or federal law occurring during the term of this Franchise eliminates the requirement for any person desiring to provide video service or Cable Service in the Franchise Area to obtain a franchise from the Grantor, then Grantee shall have the right to terminate this Franchise and operate the Cable System under the terms and conditions established in applicable law. If Grantee chooses to terminate this Franchise pursuant to this provision, this Franchise shall be deemed to have expired by its terms on the effective date of any such change in law, whether or not such law allows existing franchise agreements to continue until the date of expiration provided in any existing franchise.

15.7 Notices. Unless otherwise provided by federal, State or local law, all notices pursuant to this Franchise shall be in writing and shall be deemed to be sufficiently given upon delivery to a Person at the address set forth below, or by U.S. certified mail, return receipt requested, nationally or internationally recognized courier service such as Federal Express or electronic mail communication to the designated electronic mail address provided below. As set forth above, notice served upon the Grantor shall be delivered or sent to:

Grantor: Amie Hendrix
Manager, City of Geneva
47 Castle Street
Geneva, NY 14456

Email: ahendrix@geneva.ny.us

Grantee: Lauren Kelly
Director, Government Affairs
100 Town Centre Dr.
Rochester, NY 14623
Email: lauren.kelly@charter.com
Copy to: Charter Communications
Attn: Vice President, Government Affairs
601 Massachusetts Ave NW, Suite 400W
Washington, DC 20001

15.8 Public Notice. Minimum public notice of any public meeting relating to this Franchise or any such grant of additional franchises, licenses, consents, certificates, authorizations, or exemptions by the Grantor to any other Person(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way shall be by publication at least once in a newspaper of general circulation in the area at least ten (10) days prior to the meeting and a posting at the administrative buildings of the Grantor.

15.8.1 Grantor shall provide written notice to Grantee within ten (10) days of Grantor's receipt from any other Person(s) of an application or request for a franchise(s), license(s), consent(s), certificate(s), authorization(s), or exemption(s) to provide Cable Services, video services, or other television services utilizing any system or technology requiring use of the public rights of way. Any public hearings to consider such application or request shall have the same notice requirement as outlined in Paragraph 15.8 above.

15.9 Severability. If any section, subsection, sentence, clause, phrase, or portion of this Franchise is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Franchise.

15.10 Entire Agreement. This Franchise and any Exhibits hereto constitute the entire agreement between Grantee and the Grantor and they supersede all prior or contemporaneous agreements, representations or understandings (whether written or oral) of the parties regarding the subject matter hereof.

15.11 Exemption From Chapter 227. Grantor and Grantee acknowledge and agree that Grantee is exempt from the requirements of Chapter 227 of the City of Geneva Municipal Code and that the terms of this Franchise shall be solely as set forth herein.

15.12 Administration of Franchise. The Board or such other person as may be designated and supervised by the Board is responsible for the continuing administration of the Franchise. This Franchise is a contract and neither party may take any unilateral action that materially changes the mutual promises and covenants contained herein. Any changes, modifications or amendments to this Franchise must be made in writing, signed by the Grantor and the Grantee. Any determination by the Grantor regarding the interpretation or enforcement of this Franchise shall be subject to de novo judicial review.

15.13 NYPSC Approval. This Franchise is subject to the approval of the NYPSC. Grantee shall file an application for such approval with the NYPSC within sixty (60) days after the date the Franchise is approved by Grantor and accepted by Grantee. Grantee shall also file any necessary notices with the FCC.

15.14 Effective Date. The Franchise granted herein will take effect and be in full force from the date of approval by the NYPSC ("Effective Date"). If any fee or grant that is passed through to Subscribers is required by this Franchise, other than the franchise fee, such fee or grant shall go into effect sixty (60) days after the Effective Date of this Franchise.

15.15 No Third Party Beneficiaries. Nothing in this Franchise is intended to confer third-party beneficiary status on any person other than the parties to this Franchise to enforce the terms of this Franchise.

Considered and approved this ____ day of _____, 20____.

City of Geneva

Signature: _____

Name/Title: _____

Accepted this ____ day of _____, 20____, subject to applicable federal and State law.

Spectrum Northeast, LLC, By Its Manager, Charter Communications, Inc.

Signature: _____

Name/Title: _____



Geneva City Council Agenda Item Briefing

To: Geneva City Council

From: Amie Hendrix, City Manager

Meeting Date: August 2, 2023

Item Title: 2023 New York State Consolidated Funding Application Stormwater Infrastructure Engineering Planning Grant Application SEQR Approval

Action Required:

If approved by council, this action classifies the proposing to submit a 2023 Consolidated Funding Application (CFA) for the for the Non-Agricultural Nonpoint Source Planning Grant (NPG) program under the Stormwater Retrofit sub-category to conduct a stormwater study to be a Type II Action under 6 N.Y.C.R.R. Section 617.5 [c] [24] [27] of the State Environmental Quality Review (SEQR) Regulation

Background:

In order to proceed with the grant application a SEQR review must be for the Non-Agricultural Nonpoint Source Planning Grant (NPG) program under the Stormwater Retrofit sub-category to conduct a stormwater study.

Financial Impact:

There is no financial impact associated with the SEQR review.

Office of the City Clerk

Lori Guinan

CITY HALL- 47 CASTLE STREET- GENEVA, NEW YORK 14456

(315) 789-2603 - FAX (315) 789-0604 - lguinan@geneva.ny.us - www.cityofgenevany.com

RESOLUTION # 26 - 2023

City of Geneva

**2023 New York State Consolidated Funding Application
Stormwater Infrastructure Engineering Planning Grant Application**

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Geneva City Council (Hereinafter referred to as "Council") is proposing to submit a 2023 Consolidated Funding Application (CFA) for the for the Non-Agricultural Nonpoint Source Planning Grant (NPG) program under the Stormwater Retrofit sub-category to conduct a stormwater study; and

WHEREAS, this action constitutes "information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies" and "conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action" which under the New York State Environmental Quality Review (SEQR) Act are listed as Type II actions for which it has been determined there are no significant adverse effects on the environment; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Council does hereby classify the above-referenced action to be a Type II Action under 6 N.Y.C.R.R. Section 617.5 [c] [24] [27] of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Council in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.



**Geneva City Council
Agenda Item Briefing**

To: Geneva City Council

From: Amie Hendrix, City Manager

Meeting Date: August 2, 2023

Item Title: Resolution of Support & Authorization for the City of Geneva, 2023 New York State Consolidated Funding Application, Non-Agricultural Nonpoint Source Planning Grant Application

Action Required:

If approved by council, a 2023 Consolidated Funding Application (CFA) on behalf of the City, for the Non-Agricultural Nonpoint Source Planning Grant (NPG) program under the Stormwater Retrofit sub-category to conduct a stormwater study will be submitted.

Background:

If this grant funding is received it will allow the City to prepare a planning report that will explore cost effective solutions to mitigate localized flooding and address inundation of the stormwater system, as well as enable the City to seek further funding for construction through future Consolidated Funding Application rounds to continue the advancement of the water quality improvements.

Financial Impact:

There is a local cost of a 10% match to the grant which will not exceed \$50,000.

Office of the City Clerk

Lori Guinan

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RESOLUTION # 27 - 2023

**CITY OF GENEVA
RESOLUTION OF SUPPORT & AUTHORIZATION FOR THE CITY OF GENEVA
2023 NEW YORK STATE CONSOLIDATED FUNDING APPLICATION
NON-AGRICULTURAL NONPOINT SOURCE PLANNING GRANT APPLICATION**

WHEREAS, the City of Geneva, Ontario County, supports the submission of a 2023 Consolidated Funding Application (CFA) on behalf of the City, for the Non-Agricultural Nonpoint Source Planning Grant (NPG) program under the Stormwater Retrofit sub-category to conduct a stormwater study; and

WHEREAS, the New York State Department of Environmental Conservation (DEC), provides a competitive statewide reimbursement grant program to assist in the initial planning and preparation of an Engineering Report of a non-agricultural nonpoint source water quality improvement project; and

WHEREAS, if funding is received it will allow the City to prepare a planning report that will explore cost effective solutions to mitigate localized flooding and address inundation of the stormwater system, as well as enable the City to seek further funding for construction through future Consolidated Funding Application rounds to continue the advancement of the water quality improvements;

NOW THEREFORE BE IT RESOLVED, the City Council, on behalf of the City, identifies the City Manager as the authorized representative for the project, able to execute necessary documents relative to and as required for this application; and

BE IT FURTHER RESOLVED, the City Council does hereby authorize and obligates local matching funds of the minimum 10% of the total grant funding awarded in the form of in-kind services or cash contribution hereby appropriated from the sewer fund; and

BE IT FURTHER RESOLVED, that the City of Geneva recognizes and fully supports the submission of the 2023 CFA for a Non-Agricultural Nonpoint Source Planning project to address stormwater issues.

City of Geneva Committee Review 2023

Ad hoc committees & Task Forces

Definition: An ad hoc committee is a temporary committee established to resolve a specific issue. The ad hoc committee is typically appointed by executive leadership. A task force is a temporary organization created to solve a particular problem. It is considered to be a more formal ad hoc committee.

Lakefront Railway Integration Committee

Definition: Standing committee to research the impacts of the Finger Lakes Railroad and Norfolk Southern on the quality of life in Geneva

Membership: 6 people (referred to as volunteers in the resolution)

Staff Liaison:

Creation Date: 10/6/2021

Residency Requirement: Yes

Current Status: All seats are currently full

Advisory Boards

Definition: An advisory board is a structured and collaborative method for organizations to engage with external advisors. Advisory boards act as a sounding board for a particular department or departments.

Police Budget Advisory Board

The Police Budget Advisory Board provides citizen involvement, understanding, and oversight of the Geneva Police Department's (GPD) budget.

Membership: 5 members interviewed by council liaison and board members; review and appointed by Council

Staff Liaison: Comptroller and Police Chief

Creation Date: 7/1/2020

Residency Requirement: Yes

Current Status: All seats are currently full

Recreation and Youth Advisory Board

The Recreation Advisory Board is charged with advisement and counsel on development of recreational programming and facilities in the City as developed by the Recreation Department.

Membership: 9 members appointed by Council. Interviewed by liaisons and members

Staff Liaison: Recreation Director

Creation Date: Charter – 1956 (FKA Youth Bureau Commission)

Residency Requirement: Yes

Current Status: All seats are currently full

Boards

Definition: a group of people appointed or elected to serve as the governing and decision-making body of an organization or area of expertise.

Local Development Corporation

The Geneva Local Development Corporation was chartered to support economic development and neighborhood revitalization efforts in the City. The agency has developed a number of programs to support small business development.

Membership: 9 members interviewed by LDC; appointed by council

Staff Liaison: Planning and Economic Development Director, Comptroller, City Manager

Creation Date: 4/7/2010

Residency Requirement: No

Current Status: All seats are currently full

Industrial Development Corporation

The City of Geneva Industrial Development Agency was created to promote, develop, encourage, and assist in acquiring, constructing, maintaining, equipping, and furnishing certain types of projects and facilities, to advance the job opportunities, health, general prosperity, economic welfare, and recreation opportunities of the citizens of the City of Geneva.

Membership: 7 members interviewed by IDA; appointed by council

Staff Liaison: Planning and Economic Development Director, Comptroller, City Manager

Creation Date: early 1980's

Residency Requirement: No

Current Status: One new appointment this year as one member leaves the board

Ontario County Planning Board

The Ontario County Planning Board reviews certain zoning and planning actions that are referred to them for recommendation by a Village, Town or City before the municipality's final decision is made.

City Membership: 1 member; interviewed and recommended by council to the OCPB

Creation Date: 1973 ±

Residency Requirement: Yes

Current Status: Appointment is confirmed currently

Housing Authority Board

The Housing Authority is charged with administration of federal housing assistance programs inside the City, as well as management and operations oversight to multiple federally-supported housing developments.

City Membership: 1 elected official, 1 appointment by City Manager

Creation Date: 1956 ±

Residency Requirement: Yes

Current Status: Both representatives are serving

Business Improvement District Board of Directors

The Geneva BID is a nonprofit organization that receives its base financing through a property tax assessment and focuses solely on promoting its downtown geographical location.

City Membership: Comptroller, City Manager, 1 Elected Official

Creation Date:

Residency Requirement: No

Current Status: All City seats are full

Board of Assessment Review

The Board of Assessment Review (BAR) is vested with the duty and responsibility of hearing assessment complaints in the first instance. Members exercise judgment and discretion to render an impartial, objective determination on assessment complaints brought before the board, including a statement of the reasons for the determination.

Membership: 5 members appointed by council

Staff Liaison: Assessor

Creation Date: 1954 ±

Residency Requirement: Yes

Current Status: All seats are currently full

Board of Ethics

The Board of Ethics reviews allegations of ethical misconduct against officers of the City. Individuals with training in legal, human resources, or other areas of ethical consideration are encouraged to apply.

Membership: 5 members interviewed by board members; review and appointed by Council

Staff Liaison: City Clerk

Creation Date: Aug 2009

Residency Requirement: Yes

Current Status: One current vacancy

Planning Board

The Geneva Planning Board is charged with review of land use and development activity in the City. The Board interprets City Zoning Code and applies best practices in development to reviews of site plan and architectural proposals for projects in the City.

Membership: 9 members appointed by Council (reviewing this to move towards 7 per NYS Law)

Staff Liaison: Building and Zoning Coordinator

Creation Date: Jan 1954

Residency Requirement: Yes

Zoning Board of Appeals

The purpose of the City of Geneva Zoning Board of Appeals is to ensure equitable administration of the City's Zoning Code

Membership: 7 members appointed by Council

Staff Liaison: Building and Zoning Coordinator

Creation Date: Feb 1954

Residency Requirement: Yes

Current Status: Two seats are currently vacant

Commissions

Definition: A group of people officially charged with a particular city function that serves as an external review process to the organization.

Human Rights Commission

The Geneva Human Rights Commission has been committed to promoting human rights in our city since the commission was first established in 1964. The enabling statute of the Geneva Human Rights Commission lists a number of duties and authorizations. Through these duties and authorizations, the Geneva Human Rights Commission seeks to further mutual respect in our city across all lines of social difference

Membership: 13 members interviewed by the commission, appointed by Council.

Staff Liaison: City Manager

Creation Date: 1964

Residency Requirement: No

Current Status: Recruiting additional members for 7 vacant seats

Fire Commission

Along with the fire chief, the commission is charged with the purchasing and care of all of the apparatus and property in the possession of the fire department.

Membership: 3 members reviewed by companies, appointed by Council.

Staff Liaison: Fire Chief

Creation Date: Jan 1956 ±

Residency Requirement: No (must be firefighter)

Current Status: All seats are currently full

Historic Districts Commission

The Historic Districts Commission is charged with review of construction projects within the bounds of the South Main and Genesee Park historic districts and for other structures as defined by law.

Membership: 7 members appointed by council

Staff Liaison: Zoning and Building Coordinator

Creation Date: 1969 ±

Residency Requirement: Yes

Current Status: All seats are currently full

Committees

Definition: A committee is a group of people appointed for a specific function, typically consisting of members of a council as well as community members. Committees operate as internal regulation of the body.

Shade Tree Committee

The Shade Tree Committee is dedicated to improving Geneva's urban environment through trees. The City of Geneva's Shade Tree Committee advises on all aspects of City Tree: planting, trimming, and removal.

Membership: 9 members appointed by Council.

Staff Liaison: Department of Public Works

Creation Date: 4/1/1998

Residency Requirement: No

Current Status: 3 current vacancies

Green Committee

This Green Committee is charged with evaluating City operations and community practices for sustainability impacts, and with making recommendations to City Council on policy changes or changes to operational practices.

Membership: 9 varied number of members appointed by Council.

Staff Liaison: Planning and Economic Development Director, Department of Public Works

Creation Date: 4/1/2009

Residency Requirement: No

Current Status: Seats and terms are defined as needed

Revolving Loan Fund Committee

The Revolving Loan Fund Committee is charged with administration of loan programs inside the City.

Membership: Interviewed by RLF and appointed by LDC

Staff Liaison: Director of Planning and Economic Development, Comptroller

Creation Date: 2004 ±

Residency Requirement: No

Proposed For Removal

The following committees have not met in at least two years and have many current vacancies. If these committees are to continue, they will need to be re-established and direction set for each group. Staff recommendations on each committee is as follows:

College Livability Task Force: This task force was created to keep dialogue open between the colleges, council and the community during a trying time for all three. This team has not met in at least three years. If a new task force is needed the City Council and Colleges should work together to create a new body.

Disability Awareness Committee: All terms have expired for committee members in 2018. The work of this committee can be considered as part of the Human Rights Commission work.

Hiring Assistance Board: This committee was dissolved over ten years ago but a formal resolution to dissolve this was not brought forward.

Police Body Camera Policy Task Force: The work of the task force has been completed with the adoption of a policy.

Public Art Committee: All terms have expired for this committee in 2020. The work of the public art committee could be contained as a subcommittee of the Recreation Advisory Board and/or within the Planning or Zoning Board.

Community Compact: The work of this task force has not continued beyond 2021.



**Geneva City Council
Agenda Item Briefing**

To: Geneva City Council

From: Joseph Venuti, Director of Public Works

Meeting Date: August 2, 2023

Item Title: Resolution Approving Proposal for Engineering Services Marsh Creek WWTP – ATAD System Improvements

Background:

City of Geneva (City), intends to construct improvements to the Marsh Creek WWTP, specifically the addition of a second Autothermal Thermophilic Aerobic Digestion System (ATAD) and related improvements Project;

City staff solicited qualifications from engineering firms by issuing a Request for Qualifications (RFQ); and based on the City's evaluation and ranking of the RFQ's, the City selected MRB Group Engineering, Architecture and Surveying, DPC (MRB) as the most highly qualified respondent

Financial Impact:

Professional Services Agreement for MRB will include but not be limited to the following scope:
Basics Engineering Services for Multiple Prime Contracts, (Lump Sum \$893,500);
Construction Observation Services (Hourly Not to Exceed \$200,000);
Additional Services (Hourly Not to Exceed \$95,000).

City intends to fund all or part of the Project with zero-percent hardship financing through the New York State Environmental Facilities Corporation (NYSEFC) Clean Water State Revolving Fund (CWSRF) and a NYS Water Infrastructure Improvement Act (WIIA) grant in the amount of \$2,309,238.

Department of Engineering and Public Works

Joseph Venuti, Director of Engineering and DPW

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RESOLUTION # 28 – 2023

**CITY OF GENEVA
RESOLUTION APPROVING PROPOSAL FOR ENGINEERING SERVICES
MARSH CREEK WWTP – ATAD SYSTEM IMPROVEMENTS
NYSEFC CWSRF PROJECT NO. C8-6436-08-00**

WHEREAS, the City of Geneva (City), Ontario County, intends to construct improvements to the Marsh Creek WWTP, specifically the addition of a second Autothermal Thermophilic Aerobic Digestion System (ATAD) and related improvements (hereinafter referred to as the "Project"); and

WHEREAS, the City intends to fund all or part of the Project with zero-percent hardship financing through the New York State Environmental Facilities Corporation (NYSEFC) Clean Water State Revolving Fund (CWSRF) and a NYS Water Infrastructure Improvement Act (WIIA) grant in the amount of \$2,309,238; and

WHEREAS, the City solicited qualifications from engineering firms by issuing a Request for Qualifications (RFQ); and

WHEREAS, in response to the RFQ, the City received Three (3) Statements of Qualifications (SOQ) and, based on the City's evaluation and ranking of the SOQ's, the City selected MRB Group Engineering, Architecture and Surveying, DPC (MRB) as the most highly qualified respondent; and

WHEREAS, at the City's request MRB submitted a proposal for professional services (Proposal) dated July 18, 2023; and

WHEREAS, the City has reviewed and negotiated the Proposal including the scope of work and corresponding fees.

NOW THEREFORE BE IT RESOLVED, that City Council, on behalf of the City, approves the Proposal; and

BE IT FURTHER RESOLVED, that City Council directs the City Manager to request a formal Agreement for Professional Services (the "Agreement") from MRB, as referenced in the Proposal and authorizes the City Manager to execute the Agreement at her discretion.



Geneva City Council
Agenda Item Briefing

To: Geneva City Council

From: Stefanie Newcomb, Comptroller

Meeting Date: August 2, 2023

Item Title: Resolution Amending the 2023 General Fund Budget for Demolition of 46 Hallenbeck Ave

Action Required:

A vote by City Council is required to amend the 2023 General Fund budget to transfer a maximum of \$50,000 from reserve to cover the cost of demolition at 46 Hallenbeck Ave.

Background:

The current structure located at 46 Hallenbeck Ave has deteriorated beyond repair and the structural integrity has been compromised to a point it has been deemed unsafe by our City Code Department and therefore must be demolished. Pending an asbestos survey, the City will move forward with appropriate demolition and disposal estimated to cost around \$50,000.

Financial Impact:

General Fund reserve balance decreased by up to \$50,000

Additional Information:

None

Office of the Comptroller

CITY HALL- 47 CASTLE STREET- GENEVA, NEW YORK 14456

RESOLUTION # 29 - 2023

**RESOLUTION AMENDING THE 2023 GENERAL FUND BUDGET FOR
DEMOLITION OF 46 HALLENBECK AVE**

WHEREAS, the City of Geneva, utilizing the appropriate foreclosure process has transferred title for 46 Hallenbeck Ave due to back taxes and

WHEREAS, the City of Geneva Code department has deemed the structure uninhabitable and structurally unsafe and requires demolition and

WHEREAS, the cost of demolition is not covered in the current 2023 budget

NOW, THEREFORE, BE IT RESOLVED, that the Geneva City Council, hereby, and in due form, does amend the 2023 General Fund Budget as follows:

REVENUES:

Add

APPROPRIATION FROM GENERAL FUND BALANCE

NOT TO EXCEED \$50,000

EXPENSES:

Add

Engineering:

General Maintenance

NOT TO EXCEED \$50,000



Geneva City Council Agenda Item Briefing

To: Geneva City Council

From: Amie Hendrix, City Manager

Meeting Date: August 2, 2023

Item Title: Resolution Establishing a Public Hearing for an Amendment of the City of Geneva Code Chapter 350

Action Required:

If approved by council, this action sets a public hearing for the September 6 City Council meeting to discuss adding section 350-44 to the City Code regarding Short Term Rentals.

Background Information: At the Short Term Rental work session and Zoning work sessions Councilmembers asked to fast track the Short Term Rental Ordinance. This public hearing is the first step of drafting an ordinance which would allow an amendment to the City Zoning regulations.

Financial Impact:

There is no financial impact associated with setting the public hearing.

Office of the City Clerk

Lori Guinan

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ORDINANCE # - 2023
AN ORDINANCE AMENDING CHAPTER 350 OF THE GENEVA CITY CODE

Be it ordained by the City Council of the City of Geneva, NY that Chapter 350 of the Geneva City Code be amended to add Section 350-44, entitled Short Term Rentals, as follows:

§ 350-44 SHORT-TERM RENTALS

350-44-1. Findings: The purpose of this enactment is to:

- A. Maximize the availability of affordable housing options by ensuring that no long-term rental properties are converted into short-term rentals;
- B. Ensure that short-term rentals are taxed in the same way as traditional lodging providers to ensure a level playing field and maintain local service jobs;
- C. Ensure that the city does not lose out on hotel tax revenue that could be invested in much needed services for permanent residents;
- D. Minimize public safety risks and the noise, trash and parking problems often associated with short-term rentals without creating additional work for the local police and public works departments;
- E. Give citizens the option to utilize their properties to generate extra income from short-term rentals as long as all of the above-mentioned policy objectives are met.

350-44-2 Definitions

Dwelling Unit

As used in this chapter, the term "Dwelling Unit" shall mean a building or portion thereof providing complete kitchen and bathroom facilities for one family.

Short-Term Rental

As used in this chapter, the term "Short-Term Rental" shall mean a dwelling that is rented, in whole or in part, to any person or entity for a period of less than 30 consecutive nights and meets all of the regulations, requirements and standards contained in this Chapter, as amended. Short Term Rentals do not include Boarding Houses or Bed and Breakfast Inns.

Rental

As used in this chapter, the term "Rental" shall mean an agreement granting use or possession of a dwelling in whole or in part, to a person, group or entity in exchange for consideration. Use of a short-term rental by a record owner of a property shall not be considered to be a rental under this section.

350-44-3. Presumption of dwelling unit as short-term rental property

- A. The following shall create a presumption that all or a part of a dwelling unit is being used as a short-term rental:
 - 1. All or a part of the property is offered for lease on a short-term rental website, including but not limited to Airbnb, Home Away and VRBO, for a rental period of 30 consecutive nights or less; and/or
 - 2. All or a part of the property is offered for lease for a period of 30 days or less through any form of advertising.
- B. The foregoing presumptions may be rebutted by evidence presented to the City of Geneva Code Enforcement Office that the premises is not operated as a short-term rental.

350-44-4. General Requirements.

- A. General Requirements.
 - 1. Short-term rentals in the City of Geneva are subject to City of Geneva Room Occupancy Tax, Article VII of Chapter 318 of the City of Geneva Code.
 - 2. Short-term rentals in the City of Geneva are subject to Ontario County Room Occupancy Tax, currently in effect at the time of the adoption.
 - 3. **Any conditions** imposed by the City Code Enforcement Office or the City Planning Board on Special Use Permit Review.
 - 4. The property must have sufficient off-street parking spaces as required by the City of Geneva Code Enforcement Office or the City Planning Board on Special Use Permit Review.
 - 5. Tenants and guests shall not park on any part of the lawn of the property.
 - 6. The maximum number of bedrooms that can be rented is limited to 4.

7. The maximum occupancy for each short-term rental unit shall be the lesser of 10 people or the number of people allowed by bedroom capacity as determined by the international building code section 404.4.1. plus, two people.
8. Regardless of all other occupancy limitations, maximum occupancy is limited to 10 people and occupancy limitations are in effect 24 hours a day.
9. Advertisements for the short-term rentals in the City of Geneva must conform to what is allowed under this section, the short-term rental permit issued for the short-term rental in question, and contain a statement advising potential occupants that short term rentals of the property are subject to Section 350-44 of the Geneva City Code.

B. Permits Required.

1. The owner shall obtain a revocable short-term rental permit prior to rental of a dwelling unit for short-term rental purposes.
2. Where the district regulations of this Chapter require a special use permit, issuance of such permit shall be required prior to issuance of a revocable short-term rental permit under this Chapter.
3. Owners of properties being currently operated as a short-term rental as defined in this section, shall apply for a permit within sixty (60) days of the effective date of this section. A Temporary permit shall be issued pending a decision on the application.

350-44-5. Short-term rental permit application procedures.

- A. An application for or renewal of a short-term rental permit shall be submitted to the City Code Enforcement Office, signed by all persons and entities that have an ownership interest in the subject property, accompanied by payment of the permit fee in the amount determined as part of the annual chart of accounts of the City of Geneva. These fees may vary between owner occupied and non-owner-occupied units.
- B. The application shall be completed on a form provided by the City of Geneva, and shall include the following:
 1. A list of all of persons and entities that have an ownership interest in the premises to be used as a short-term rental, including names, addresses, telephone numbers (including mobile numbers) and e-mail addresses;

2. Completion of a signed and notarized affidavit by the property owners certifying the following:
 - a. The property is in compliance with New York State Code 314.3 Smoke Alarm and Carbon Monoxide Detector Locations.
 - b. Exterior doors are operational and all passageways to exterior doors are clear and unobstructed.
 - c. Electrical systems are serviceable with no visual defects or unsafe conditions.
 - d. All fireplaces, fireplace inserts or other fuel-burning heaters and furnaces are vented and properly installed.
 - e. The number of parking spaces on the property meet the standards set forth below;
 3. Affidavit certifications shall be valid during the term of the short-term rental permit, or until modifications requiring a building permit are made, or until the City Code Enforcement Officer has reason to believe an inspection is warranted.
 4. A site plan, drawn to scale, showing the location of buildings, required parking and, if not served by a public sewer, the location of the septic system and leach field. An accurate, suitable plan need not be prepared by a professional.
 5. A statement that the property is served by a public sewer.
 6. Mobile Telephone numbers and email addresses of a contact person(s), who shall be responsible, and authorized, to act on the owner's behalf to promptly remedy any violation of these standards or the permit. The contact person may be the owner or an agent designate by the owner to serve as a contact person.
- C. The owner shall sign a consent authorizing the City Code Enforcement Office to enter upon the premises to conduct an inspection to verify compliance with the Zoning Code of the City Geneva, including this section; to verify compliance with applicable New York State laws, codes and regulations; to verify the number of sleeping rooms within the short-term rental, as authorized by this section; and to verify the number of parking spaces on the property meet the standards set forth in this section.
- D. Upon the filing of a complete permit application with the City Code Enforcement Office together with the permit fee, and all documents and information required by

this section, the City Code Enforcement Office shall have thirty (30) days to review the application and then either issue the permit, including, or notify the applicant in writing that the application has been denied, along with the reason or reasons for denial.

E. Short-Term Rental Permit Provisions.

1. A short-term rental permit shall be obtained prior to using the premises as a short-term rental.
2. A short-term rental permit shall be valid for two calendar years, and shall expire on December 31 of the second year it is in effect, and must be renewed upon expiration as long as the unit is used as a short-term rental.
3. The short-term rental permit is transferable to a new owner, so long as the owner registers with the City, updates the short-term rental permit, application, and agrees in writing to comply with the requirements of the short-term rental permit and these regulations.
4. If the conditions under which the short-term rental permit is issued are not maintained or these regulations are violated, the short-term rental permit may be revoked and the owner subject to the penalties of this Chapter and the penalties set forth below.

F. Short-term rental permits issued pursuant to this section shall state the following:

1. The names, addresses, and phone numbers of the subject property owner or property manager who lives within 30 minutes of the City of Geneva if subject property owners do not live within 30 minutes of the City of Geneva.
2. Identification of the number of and location of off-street parking spaces available.
3. A statement that the short-term rental permit may be revoked for violations.
4. A statement that guests must comply with the Noise Ordinance of the City of Geneva, as set forth in Chapter 232 of the City Code, which ordinance will be enforced by the City Police Department, the Ontario County Sheriff's Department, the New York State Police, or any law enforcement agency properly exercising jurisdiction over the premises or incident;

5. Any conditions imposed by the City Code Enforcement Office or the City Planning Board on Special Use Permit Review.
 6. The permit expiration date, which shall be December 31st of the second year the permit is effective.
- G. The current short-term rental permit shall be prominently displayed inside and near the front entrance of the short-term rental.
- H. Application Denial. City Code Enforcement may decline an application for any of the following reasons:
1. The application is incomplete, the documentation required is not included with the application, or the full permit fee, in payment form acceptable for the City Clerk, is not included with the application.
 2. A short-term rental permit issued to any of the owners was revoked within the year prior to the date if the application.
 3. City Code Enforcement determines upon permit inspection that the subject property is not in compliance with City code.
 4. The site plan required to be submitted with the application does not comport with the requirements of this section.

350-44-6. Compliance, Hearings, and Penalties.

- A. Owners of short-term rental units shall obey all applicable laws, ordinances, and regulations of the City of Geneva, Ontario County, New York States and the United States of America, and shall be subject to the enforcement proceedings contained in this section.
- B. The following process shall be followed in the event of a violation of this section or a permit issued under this section:
1. A complaining party or the City Code Enforcement Office upon a reasonable belief a violation set forth in section "A" has occurred, shall attempt to contact the contact person designated on the permit, describe the complaint, and indicate the desired remedy.
 2. The contact person shall, within twelve hours of receiving the complaint, respond to the complaining party or to the City Code Enforcement Office and remedy as soon as reasonably possible any situation that is out of compliance with this section or with the short-term rental permit for the property.

3. If the response is not satisfactory to the complaining party or to the City Code Enforcement Office or if the contact person cannot be reached, the complaining party or the City Code Enforcement Office may file a written complaint, including the date, time and nature of the alleged violation as well as a statement that the complaining party or the City Code Enforcement Office either unsuccessfully attempted to contact the contact person or did contact the contact person but the complaint was not adequately resolved. Failure to attempt to contact the contact person will not excuse a violation.
4. A copy of the written complaint shall be delivered to the owner who shall file a response with the City Code Enforcement Office no later than ten (10) days of receipt of a copy of the complaint.
5. The City Code Enforcement Office shall issue a written determination concerning the Complaint within ten (10) days of receipt of the owner's response, setting forth a statement of violation or no violation, the reasons therefore, and
 - a. Imposing reasonable conditions to the existing short-term rental permit;
 - b. Suspending the short-term rental permit; or
 - c. Revoking the short-term rental permit.
6. Should a permit be revoked, none of the owners of the short-term rental property may obtain any short-term rental permit sooner than one year after the date of revocation.

350-44-7 Appeals

Decisions of the Land Use Enforcement Officer will be provided to the parties and may be appealed by the owner or by the complaining party, by filing a written appeal within thirty (30) days of receipt of the decision, to the City Zoning Board of Appeals. The Zoning Board of Appeals shall conduct a de novo review of the decision.

350-44-8 Penalty

Those determined to be operating a Short-Term Rental without a permit, otherwise failing to comply with determinations of the City Code Enforcement Office; or the City Planning Board on Special Use Permit Review; or otherwise failing to comply with City Code § 250-44 will be guilty of a violation, punishable by a fine to be set by City Council. For the purposes of City Code § 250-44, each day a violation exists shall constitute a separate violation.

350-44.9 Effective Date

This Ordinance, amending the Geneva City Zoning Code shall take effect immediately upon adoption by the City Council.

DRAFT

RESOLUTION # 30 - 2023

**RESOLUTION ESTABLISHING A PUBLIC HEARING FOR AN AMENDMENT
OF THE GENEVA CITY CODE CHAPTER 350**

WHEREAS, the Geneva City Council has stated its intent to adopt an ordinance amending the City Zoning Regulations set forth in Chapter 350 of the City Code to add section 350-44 for the purpose of regulating short-term rentals in the City; and

WHEREAS, a copy of the proposed ordinance is attached to this resolution; and

WHEREAS, General City Law § 83 authorizes amendment of the City Zoning Regulations after notice and public hearing; and

WHEREAS, the proposed amendment of the City Zoning Regulations is determined to be in the best interest of the City of Geneva.

NOW, THEREFORE BE IT RESOLVED, that a public hearing for the proposed amendment of the City Zoning Regulations set forth in the attached ordinance be held at the regular Geneva City Council meeting on September 6, 2023.



Geneva City Council Agenda Item Briefing

To: Geneva City Council

From: Jan Regan, City Councilor

Meeting Date: August 2, 2023

Item Title: Resolution in Support of the Submission of a Grant Application by the Smith Center for the Arts to Ontario County for Federal American Rescue Plan Funds

Action Required:

The Smith Center for the Arts is Requesting a Resolution in Support of their Application for a Grant to Ontario County for Federal American Rescue Plan Funds

Background Information:

Ontario County Board of Supervisors have made available funding received through the Federal American Rescue Plan to fund projects that support the development and expansion of arts, cultural, and recreational opportunities from non-profits, private entities, and municipalities that have been negatively impacted by COVID-19. The County is soliciting grant applications for projects that (i) respond to the negative impacts of COVID-19, (ii) involve investment in the arts, cultural activities, or the creation or enhancement of active or passive recreational opportunities, and (iii) support the recovery and economic resilience and/or quality of life in Ontario County.

The Smith Center for the Arts, having weathered the deleterious effects of the COVID 19 pandemic and its impact on theatrical venues, seeks funding to support the costs of promoting and delivering artistic programming. The Smith seeks to contract with well-known artists and to promote performances beyond our county lines, attracting visitors to our city to enjoy the show and the dining, shopping and lodging establishments in our community.

Financial Impact:

None

3rd Ward City Councilor Jan Regan

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RESOLUTION # 31 - 2023

**RESOLUTION IN SUPPORT OF THE SUBMISSION OF A GRANT APPLICATION
BY THE SMITH CENTER FOR THE ARTS TO ONTARIO COUNTY
FOR FEDERAL AMERICAN RESCUE PLAN FUNDS**

WHEREAS, the Policies of Lakefront and Downtown Development adopted in 2009 by the City of Geneva, and the Full Occupancy Initiative adopted by the Business Improvement District in 2009 identify downtown Geneva as an opportunity for revitalization activities, and

WHEREAS, the Smith Opera House is one of oldest performing arts theaters in the United States and is recognized by the National Register of Historic Places and the Smith Center for the Arts is an active partner in the cultural, community, and economic life of Geneva,

WHEREAS the Ontario County Board of Supervisors have made available funding received through the Federal American Rescue Plan to fund projects that support the development and expansion of arts, cultural, and recreational opportunities from non-profits, private entities, and municipalities that have been negatively impacted by COVID-19.

NOW, THEREFORE, BE IT RESOLVED the Geneva City Council supports the submission of a grant application by the Smith Center for the Arts to Ontario County for Federal American Rescue Plan Funds.