VILLAGE OF GENESEO April 20, 2015
BOARD OF TRUSTEES

PUBLIC HEARING to consider Local Law #1, 2015 – Social Host Legislation

PRESENT:

Richard B. Hatheway, Mayor
Sandra F. Brennan., Deputy Mayor
Margaret E. Duff, Trustee
Benjamin Gajewski, Trustee
Robert Wilcox, Trustee
Marsha B. Merrick, Clerk/Treasurer
Eric Osganian, Police Chief

PUBLIC PRESENT:

David Lim	Carrie Seche	Brittany Maiorano	Devon McMillan
Richard Rovner	Diana Ganis	Mary Schillinger-Cooke	Mollie Thompson
Isaac Bilinski	Evelyn Rodriguez	Christopher Cooke	Evan Walsh
Victor Lazarte			

1. HEARING OPENED:

Mayor Hatheway opened the public hearing at 5:15PM, stating that the appropriate notification had been published. Copies of the law have been made available before the hearing.

Trustee Wilcox gave a brief overview of the law that was introduced to protect the public interest, welfare, health and safety within the Village of Geneseo by prohibiting the service to and consumption of alcoholic beverages and illegal drugs by persons under the age of twenty one at private residences. Village Attorney Reynolds has been involved in modifying the Geneseo version of a law previously enacted in other municipalities. Currently, when the police respond to a noise complaint or some other issue at a residence and observe minors in possession of alcoholic beverages, they try to identify the person responsible for purchasing the alcohol. That effort meets with limited success. The Social Host legislation transfers that responsibility to whoever is 'hosting' the gathering, whether it is the building owner or a tenant. That person will be deemed in charge and will be cited for the underage persons being served, no matter who actually purchased the alcohol. The penalty is not a misdemeanor or a felony and will not go on anyone's record. It is simply a violation with a $250 fine attached for the first occurrence and $500 for the second occurrence. Similar to other violations, the appearance ticket will be adjudicated by the justice court. The legislation has been enacted in some neighboring counties of Monroe, Steuben and Allegany; it has also been strongly supported by the Livingston County Sheriff's Department, the Livingston County District Attorney's Office and Geneseo Police Department.

Mayor Hatheway then opened the public hearing to comments.

- A question was raised about the success in other counties after enacting this law. Trustee Wilcox said others have had success and spoke of it at our meetings with them. Wording for the Village's proposed law was taken from other communities. Trustee Duff added that she can speak to a reduction in underage drinking in Steuben and Allegany Counties. They have not had repeat offenders, as alcohol counseling is also part of the consequence of a social host conviction. (*In addition* (to the fine) *for each offense, successful completion of a court-approved alcohol and drug awareness program is required.)*
- The question was asked if there are college campuses in Allegany and Steuben counties, and the response was yes, Alfred for one is in Allegany County and Corning Community College is in Steuben.

- The law applies to any event where underage drinking might take place. For example, Bob mentioned an instance where a daughter had a couple of friends over. Mom went to bed, and then found out there were twelve kids in her basement under the age of 18, with the presence of alcohol. Had she been out of town instead of upstairs it could have been a worse case scenario.
- One member of the public stated that he has been in the community for years and attends the College where his sister also attended. He is a member of the Geneseo Fire Department. He has no problem with measures taken to combat noise and other issues that stem from off campus parties. His concern is with the automatic steep fine associated with the law, and feels that will *negatively incentivize* people to call first responders if someone needs emergency medical attention. He cited *Section 5: Prohibited Acts* and wondered if the host *promptly reported such activity to the local law enforcement agency* if that would exempt the host from the citation? He wonders if the host would still be liable if he asked the underage person to surrender his drink and then that person refuses to do that, if the host would still be liable under this law. Chief Osganian said that if the officer can substantiate that the host did the right thing, they would not be faulted. The person felt that *Reasonable corrective action shall include, but not limited to… as stated in Prohibited Acts* is a bit murky and would like that defined further. There is discretion that can be used on that very issue, Trustee Wilcox added.
- The same member of the public was concerned with sections labeled Exceptions and Severability and whether these sections would conflict with the Good Samaritan policy aimed at getting folks in need help without fear of consequence. His main concern is that the fine might impede the person's rational judgment to call for help in an emergency. A lot of folks would have trouble paying the fine. We are well aware, Bob stated, that folks laugh off a $25 or $50 fine and that is why the penalty is $250/$500. An example was made of an incident where a girl was left in the parking lot while the others waited in a building until the police came. They make a *rational calculation* and at all costs, do not want to get into trouble. Trustee Duff stated that this is a violation combined with a fine and a court-approved drug and alcohol counseling. It is not a misdemeanor and will not appear on anyone's record. Mayor Hatheway reminded everyone that the $250 fine is not collected on the spot, but that an appearance ticket will be issued and any fine will be assessed through the courts.
- Another person stated that he personally has made two 911 calls to get help for people. One was a member of his fraternity and another was for a person that just showed up at the house at midnight. He was wasted, alone, and uninvited. He now becomes our responsibility. We cannot kick him out. We take him up to my room and we monitor him, I continue to watch him to sober him up. An hour after he got to our house, he became unresponsive. The Police came and he is now fine because he got help. If this law was in place, it could have turned out differently. There are a lot of variables at hand in an emergency situation. The response was that this situation as described would not be subject to this proposed law because you did not provide the visitor with alcohol; you did the right thing in seeking medical attention.
- One person said that you should not play Russian roulette with a person's life no matter what the consequences might be if the emergency personnel are called.
- One other person asked what if no one answers the door when the Police arrive; Chief Osganian said a phone call would then be made and other means would be used to respond to whatever precipitated the call to the residence.
- Is whoever answers the door going to be subject to the fine? The response was whoever is hosting the party or is responsible for the party is the one liable to be issued the appearance ticket. Someone has to be in charge of the party or else everyone is trespassing, Chief stated.
- The point of this law is to decrease the incidents of underage drinking by assigning responsibility for providing a place where minors have access to alcohol. Someone stated that

it is well known that most of the underage drinking is attributed to the College at off-campus housing. Someone else stated that college or high school, it doesn't matter, but the problem isn't going to go away.

- One person stated that it isn't necessarily about the fine and the money, folks might not call because they are thinking about the organization and the alumni; no one wants to be responsible for getting the organization in trouble with the school.
- Question: if we live off campus and we are over 21 and then an under shows up and we did not supply alcohol, we would not be held responsible, right? If you have not provided alcohol to them, you would not be responsible, is that correct? The response from Chief Osganian was that is correct on an individual case, but if there were several unders present and drinking the person who hosted the party, the person who lives at the house, could well get in trouble. That person hosting could be underage as well. This law does not address the source of the alcohol. That issue is covered under different laws.
- Statistics have shown that 53% of the off campus drinking goes on in private residences as opposed to bars, legal establishments. Trustee Wilcox reminded those in attendance that this proposal is not targeted at students.
- If the police show up, how would they find out who is of age and who is not? Chief Osganian said that ID's would be checked.
- One person stated that his biggest concern with this law is the same as with a bunch of other laws. There is too much discretion left to the officers. That sounds like anti-law enforcement. I would rather think the officer has the spirit of the law at heart rather than the letter. He can use his discretion. It is good that it applies to all underage drinking situations.
- Someone wondered why there couldn't be a clause written into the law that it does not apply if there are medical reasons for calling the public safety personnel.
- One person said that she agrees that people need to keep themselves safe and wondered how much has gone into a DARE program to educate kids on the dangers of drinking and other substances. The College does educate people on these issues and education is the key. Bob responded that a group meets monthly to discuss ways to help with this. There are lots of folks working together in the Healthy College Community Coalition to fight this problem. They are good people who are not trying to get people in trouble but trying to help people. Margaret added that there is a group at the County level as well working for the same purpose.
- One person stated that people are going to break the law no matter what. Suppose a person is throwing a party for folks over 21. Others come into the party and bring their own alcohol. The host should not be responsible for that. Chief Osganian responded that the law gives the host an "out" for that by the host asking them to leave; should they not do so, the next step is to call the police. A host who makes an effort to avoid having minors present with alcohol would not be charged with a social host violation.
- The point was made that under this proposed legislation the hosts become responsible for the people in their house if alcohol is available. They assume responsibility once they allow a minor into their gathering.

2. <u>HEARING CLOSED:</u>

Mayor Hatheway wrapped up the conversation stating that the Village Board and the Police Department are making an effort to address a community problem. The proposed law will not stop underage drinking, but it at least places responsibility for allowing it to take place on whoever is hosting the party. It is another tool available to law enforcement personnel. Amusingly, he added, the law would have come into play in his own home years ago when his son had a party while he and his

wife were away. He became aware of the party years later, and wondered if the proposed law could now be retroactive. He thanked the participants for coming and sharing their thoughts and comments. Trustee Gajewski then moved to close the public hearing with second from Trustee Wilcox. The vote was as follows: Deputy Mayor Brennan-Aye, Trustee Duff-Aye, Trustee Gajewski-Aye, Trustee Wilcox-Aye, and Mayor Hatheway-Aye. The motion passed and the hearing closed at 6:14PM.

Marsha B. Merrick, Village Clerk