



## **PRESS RELEASE**

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*November 8, 2016*

### **CITY TO CONDUCT FURTHER REVIEW OF WATERLOO PARCEL SALE**

The City of Geneva has determined that the proposed sale of a City-owned parcel at the entrance to Seneca Lake State Park, in the Town of Waterloo, will require additional public consideration before any action is taken.

The City Attorney's Office, as part of its routine review of the sale, determined that the original proposal offered under the City's Request for Proposals should be modified to reflect the terms under consideration by City Council as part of the sale.

In August, City Council received a proposal from Bunnell Associates of Geneva to acquire the property for \$275,000, but required that the City conduct any necessary environmental clean-up and bring water and sewer utilities to the site. In order to eliminate cost risks, the City negotiated a \$200,000 sale price, with no additional work to be performed by the City on the site.

At the City Manager's suggestion, Council's approval of the sale was contingent upon terms "of the proposal submitted." The City's legal counsel noted in its review that the proposal is not congruent with the current terms of the sale, and suggested that a formal proposal be submitted with the currently proposed terms.

The City has advised the developer, and requested a new proposal be advanced for consideration prior to any final approval. Upon receipt of the proposal, Council will determine the appropriate course of action. No action is scheduled at this time.

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# Geneva Believer

## Alternative News and Views from the City of Geneva, NY

NOVEMBER 10, 2016 NOVEMBER 11, 2016 GENEVABELIEVER

### Councilor Camera Changes Vote, Attorney Advises "Reset": Lakefront Sale Update #3

City Councilor Ken Camera responded to questions and comments, and shared some previously unknown details of the lakefront parcel sale process, at Geneva Public Library on Wednesday during the first public meeting about the sale. The forum, organized by Camera (who was the only City Councilor in attendance), drew around 30 attendees from across the city.

#### Camera, Candid

The meeting opened with Camera offering a statement, which he began by saying that there was no intent on part of city officials to prevent the public from knowing about the sale; rather, they had been "bumbling through" the process. Camera stated that the City had still technically "followed the process" for a sale of public land, with the public hearing being approved at the June Council meeting (<http://cityofgenevany.com/wp-content/uploads/Current/government/CouncilMeeting2016/8%20June%201.pdf>), the "Request for Proposals" (RFP) being posted on the city's website between July and September, the public hearing taking place at the July meeting (<http://cityofgenevany.com/wp-content/uploads/Current/government/CouncilMeeting2016/July%2013%20Action%20Minutes.pdf>), and the subsequent approval of the sale in November (<https://genevabeliever.files.wordpress.com/2016/11/the-evenings-agenda.pdf>).

However, Camera said that the city had done a "really bad job of publicizing (the sale)," that there should have been a map displayed during the public hearing, and that overall it was a "badly done process." Last Friday (the day that the story of the sale broke (<https://genevabeliever.wordpress.com/2016/11/04/this-land-is-made-for-city-council/>) in the Finger Lakes Times) or possibly Saturday, Camera asked Council (via email) to hold a special public meeting to address residents' concerns. After some on Council "pushed back," Camera told Council that he wanted to change his vote.

The sale needed (and received) a supermajority of six votes and was approved at the November Council meeting; without Camera's vote, the resolution would need to be revisited. After Camera stated that he wanted to change his vote, he said that Council "began to step back."

Shortly thereafter, according to Camera, City Manager Matt Horn told Council via email that he felt that he "didn't do a good job" with the process. After being advised by the City attorney that the process may have been flawed, Horn stated that the land sale process should be re-done.

## How It Happened

Camera gave his description of how it all played out:

Earlier in the year, the City received an unsolicited proposal to purchase the land from local businessman David Bunnell. Bunnell offered to buy the land for \$275,000, contingent upon the city taking responsibility for doing the appropriate testing and research to confirm that the parcel could be built upon. The proposal was rejected. Later, Bunnell resubmitted an offer, and this proposal was discussed by Council in executive session, and one Councilor suggested that the public hearing/RFP process should begin. It was decided that City staff would work on the sale process. The accepted proposal, which was approved at the November City Council meeting, had a final price tag of \$200,000, with the city taking no responsibility for making sure the land was "clean" and ready to build, and with an additional stipulation allowing Bunnell 120 days to investigate the parcel and decide whether or not to finalize the purchase once it was approved by Council.

One notable piece of information was that the first phase of the plan was to build 14 'seasonal chalets' on the property. The second phase would bring the total to 32 units, and those additional units would be condominiums "for seniors." It was pointed out by Camera that this promise of housing for seniors might be seen as a cynical move by the developer to make the idea of condos more appealing, as senior housing is a hot political issue in the city at this time.

Camera admitted that he and other Councilors may have been "partly asleep at the switch," as he wasn't fully aware that the November vote would be the final vote until it was happening. He then offered his reasons for approving the sale:

1. The sale would prevent a land swap with the State Park, which would give the City a strip of land along the shoreline, which would be very likely to attract developers.
2. The City is "broke" and needs the money.
3. Visitors staying at the rental locations would provide an economic boost for Geneva.

At this point, Camera said that options are being explored once the decision is made to 'reset' the process, including public hearings, a period for RFP submissions, and whether Bunnell's RFP would need to be resubmitted.

To his credit, Councilor Camera displayed a very clear recognition that the public trust had been violated by the land sale process, and that this was a serious issue that needed to be rectified.

## What Now?

After a long discussion with attendees, who expressed anger and frustration at the lack of transparency, as well as their opinions on how the land could be more sensibly used, those in attendance appeared to agree that the sale should be completely stopped and the entire process restarted. If Council decides to revisit the sale at their December City Council meeting and the re-vote ends up with a supermajority in favor, the sale would go through. Therefore, it's imperative that the sale be stopped completely and reset to the beginning.

Now is the time for Geneva citizens to **speak up**. Call and/or email your City Councilors and Mayor. Let them know that you support a complete reset of the sale process, with sufficient public feedback and an open and transparent solicitation of proposals. Let them know that you found the lack of transparency in the process to be unacceptable, and that you expect them to make this right. 30 people at a meeting is a good turnout, but it's not enough (remember, the Mayor ignored a petition signed by 131 residents who asked for City Council public comment period to be restored to its original agenda location (<https://genevabeliever.wordpress.com/2016/08/25/compromised-by-a-compromise/>)).

Click on the "Contact City Council (<https://genevabeliever.wordpress.com/contact-geneva-city-council/>)" link at the top of the page for email addresses and phone numbers for all of City Council. I have added this link due to many complaints from attendees at the meeting who were unable to find email addresses for City Council on the City's website (<http://cityofgenevany.com/city-council/>) (where users must click on a Councilor's name to open a popup window, and then locate a tiny email symbol in the upper left corner of the popup.)

## Discussion Points

Attendees at the meeting expressed concerns mostly ranging from frustration to outrage. While I was unable to record direct quotes and names of all attendees, here is a sample of some points of discussion:

1. **After years of "develop or not develop" debate, the City needs to formulate a final, official concept plan for the lakefront.**
2. **The majority of attendees (with the exception of one or two) voted in a show of hands to keep the lakefront green and free of development forever.**
3. **It was suggested (and many in attendance agreed) that the City should simply stop mowing the property and gift it to the State Park, providing a buffer and extended habitat for wildlife in the adjacent wetland of the state park, where foxes, turtles, groundhogs, a multitude of birds, and others make their home(s) throughout the year.**
4. **More City Councilors should have been at the meeting, rather than allowing Councilor Camera to do it alone.**
5. **City residents should take at least some responsibility for the land sale fiasco, as more of us need to work together and stay vigilant in monitoring the activities of city officials and Council.**
6. **Many attendees were angry that the land sale was discussed in City Council executive session (out of the public's view), yet was poorly advertised to the public.**

7. **Although Camera insisted that there was “no conspiracy” to prevent the public from knowing about the sale, some attendees still believed that there was a deliberate attempt to obscure the process from the public eye, if not by Council, then by city staff.**
8. **Attendees were (obviously) angry at the overall lack of transparency, and wanted to look closely at why it happened, and how it can be prevented from happening again.**

Keep an eye on Geneva Believer for more updates.

Believe!

## LAKEFRONT SALE – ORIGINAL ARTICLE

(<https://genevabeliever.wordpress.com/2016/11/04/this-land-is-made-for-city-council/>)

## LAKEFRONT SALE – UPDATE #1

(<https://genevabeliever.wordpress.com/2016/11/07/selling-us-out-lakefront-sale-update/>)

## LAKEFRONT SALE – UPDATE #2

(<https://genevabeliever.wordpress.com/2016/11/08/publicmeetingandmore/>)

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***PRIVILEGED AND CONFIDENTIAL***  
***January 2, 2017***

**MEMORANDUM TO MAYOR ALCOCK AND GENEVA CITY COUNCIL:**

***Re: Report of Ethics Committee: November 14, 2016 Complaint  
Concerning Conduct of City Councilor Robert K. Camera***

**Introduction**

Pursuant to Code § 26-6, the Ethics Committee (the "Committee") submits the following report to the City Council. As set forth below, the Ethics Committee has determined that the report of violation of the Code of Ethics by Councilor Robert K. Camera has been substantiated. Following factual investigation, the Committee has determined that Counselor Camera has violated Tenets 1, 3, 4, 5, 10, 13, and 14.

**Complaint**

On November 14, 2016, the Committee received a complaint from Mayor Alcock ("the Mayor"), on behalf of himself and other City Council Members, concerning actions taken by Councilor Camera during a meeting at the Geneva Public Library (the "Library") on November 9, 2016. In general, the complaint mentioned that Councilor Camera had held a public meeting without informing other Council members, had disclosed information from a confidential email that City Manager Matt Horn ("City Manager") had sent to Council, and had taken it upon himself to act as a "Council of 1." The Mayor also noted that Councilor Camera sent a letter to the editor in support of a state candidate and identified himself as a City Councilor in his signature. Although the Mayor did cite to a number of the Tenets (1-4, 6-8, 10, 12-14 and 16), he later confirmed that he wanted the Committee to review the situation and to decide which, if any, Tenets were violated.

**Factual Narrative**

On November 2, 2016, the City Council held its monthly Council meeting. The Agenda included as the first order of old business: "Resolution Authorizing Sale of Public Property – Town of Waterloo Tract: Presented by City Manager Horn #66 – 2016." ("the Resolution"). During discussion of this Resolution, Councilor Camera indicated that he was not aware this was the final vote, but quickly accepted and agreed that Council was "voting on this tonight." He participated in the discussion, asked pertinent questions, listened to the statements made by other members of Council, and set forth a number of reasons why he was in favor of the Resolution. When an amendment was made to the resolution, Councilor Camera suggested additional or alternate wording. After discussion, Councilor Camera voted in favor of the Resolution

and the Resolution passed by a vote of 6-3. Councilors John Greco, Steve A. Valentino and Angelina Marino voted against the Resolution.

On Friday, November 4, 2016, the Finger Lakes Times published an article "Geneva City Council OKS Lakefront Land Sale." Immediately after reading the article, Jim Meany ("Meany") emailed Councilor Camera and asked, in substance, how this could have happened. Councilor Camera responded:

If I had my druthers, I would have asked for another month of public discussion because it was not very well publicized by Staff.

On Sunday November 6, 2016, a Geneva resident emailed the entire Geneva City Council complaining about the sale. Councilor Camera replied to "Joanne and May" the next day, November 7, 2016, and suggested that it would be a good idea for City Council to hold a special meeting before Thanksgiving "so that we can clear the air as quickly as possible." Thereafter "Joanne and May" were removed from the email chain and the City Manager was included.

During the course of Monday morning, a number of emails between Council and the City Manager discussed Councilor Camera's request for a special meeting. At 11:35 AM, Councilor Camera emailed Council, complaining about inadequate publicity given to the sale and stating that "if we are going to pass on a public conversation, then i would like to say that i am reconsidering my vote and would like it change it." At 1:38 Monday afternoon, Councilor Mark Gramling emailed that he also would like to change his vote. Soon after, at 1:49 PM, City Manager emailed Council, stating:

Based on Councilors' request, I will advise Dave that there is a proposed action to recall the vote. Any further action will need to be held until the December meeting. I will be in touch with our attorneys to be sure that all l's and t's are crossed.

The City Manager followed up with an email at 3:33 that same Monday afternoon, instructing Council:

Relative to this last email, please do not speak to any constituent ... regarding this matter until further notice. Your response to any request should be that the matter is under legal review.

Meanwhile, Councilor Camera continued to get emails and calls from Geneva residents. When the number reached approximately ten (10), he decided it made more sense to "have a conversation at the library" rather than take the time to respond to individual questions. He arranged for the use of a room at the Library for November 9, 2016 and informed the people with whom he had been in contact. Meany was one of

the residents Councilor Camera informed and Meany advertised the meeting time and place on the Geneva Believer Face Book page and the Geneva Believer Blog. Councilor Camera did not ask Meany to publish or advertise the meeting, but he was aware the Meany was planning to do so. The details of the Library meeting would have been solidified at some point on Monday, November 7, 2016, as Meany posted the notice about the Library meeting on Face Book in the early hours (12:49 AM) of Tuesday, November 8, 2016.

On Tuesday, November 8, 2016, the Finger Lakes Times ran a story "Outcry Over Lakefront Land Sale." That afternoon at 3:55 PM, City Manager sent a confidential email to Council stating:

The City Attorney's Office has determined that the ratification resolution, as amended, is insufficient to authorize execution of a sales agreement, as it references the original proposal.....I will also notify the FLT that this has been advanced to a future agenda.

Following his email, the City Manager drafted a Press Release, which he emailed to Steve Buchiere and Mike Cutillo on Wednesday, November 9, 2016 at 5:52 AM. A copy of the Press Release is attached here as Ex. A. The Press Release states in part:

The City of Geneva has determined that the proposed sale of a City-owned parcel at the entrance to Seneca lake State Park, in the Town of Waterloo, will require additional public consideration before any action is taken.

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In August, City Council received a proposal from Bunnell Associates of Geneva to acquire the property for \$275,000, but required that the City conduct any necessary environmental clean-up and bring water and sewer utilities to the site. In order to eliminate cost risks, the City negotiated a \$200,000 sale price, with no additional work to be performed by the City on the site.

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The City has advised the developer, and requested a new proposal be advanced for consideration prior to any final approval.

It is City Manager's practice not to send copies of the Press Releases to Council.

During the early afternoon of Wednesday, November 9, 2016, a number of emails were exchanged between Council and the City Manager, all of which were labeled privileged and confidential. Councilor Gordon P. Eddington emailed with concern that the resolution had not been correctly presented to the Council. (12.02 PM).



Councilor Paul D'Amico sought "sound, solid advice from Matt and our Attys" so that Council would have the necessary knowledge to convey accurate information to Geneva residents and also to know what options were available to Council. (12:45 PM) Councilor Gramling noted that he would like a colloquy with the city attorneys for clarification as "this is way too confusing to try and explain to our constituent." (1:16 PM). He added that "I don't want to give any misinformation out about this." *Id.* Councilor Camera was copied on all of the above emails, but he did not participate in the exchange.

On Wednesday evening at 5:00, Councilor Camera ran the meeting at the Library. Councilor Camera acknowledged that it was "his meeting" and that Meany did not help organize it. He prepared for it on his own and went to the Library with pictures and a tripod to assist with his presentation. Councilor Camera intentionally did not tell other Councilors about the scheduled meeting as he had already tried to get them to agree to a public meeting. Geneva Believer posted an article after the meeting titled: "Councilor Camera Changes Vote, Attorney Advises "Reset": Lakefront Sale Update #3." A copy of that article is attached here as Ex. B. During interview, Councilor Camera reviewed the article and agreed that it accurately describes the substance of the November 9, 2016 meeting. Meany wrote the article. He did not use a tape recorder, but he did take voluminous notes throughout the meeting. The article was posted to the Geneva Believer Blog site at 12:46 AM on November 10, 2016, indicating that it was written immediately after the meeting. Upon inquiry, Meany disclosed that he initially was a journalism major in college. For all of these reasons, the Committee views the article written by Meany as an accurate depiction of the Library meeting.

On Thursday, November 10, 2016, Councilor Camera sent an email to Council informing them of the Library meeting. A copy of that email is attached here to as Ex. C. The description provided by Councilor Camera in his email is consistent with the Geneva Believer article (Ex. B). Between the Geneva Believer article and Councilor Camera's email, we have an excellent factual understanding of what was said at the meeting. We also know from eye witness testimony that the mood in the room was angry and anti-Council. A review of social media after the library meeting depicts a general theme of appreciation for Councilor Camera, a gratitude toward him for listening to the public, and a disappointment with the rest of the Council for not being willing to come forward.

Later on Thursday, November 10, 2016, the Finger Lakes Times published the article "Lakefront deal goes back to Geneva City Council." The article stemmed from the City Manager's press release issued the prior day.

## DISCUSSION

### **TENET 1: ACT IN THE PUBLIC INTEREST**

Tenet 1 provides that Councilors will recognize that “stewardship for the public interest must be their primary concern” and that Councilors will “work for the common good of the people of Geneva.” This Tenet is the linchpin of the Code of Ethics. If you understand that you are a steward of the public interest and your sole aim is to work for the common good of the people of Geneva, all of the other tenets will naturally follow. Based upon our factual investigation, the Committee has concluded that Councilor Camera violated Tenet 1 in a number of ways.

Before detailing the violations, it is important to understand that Councilor Camera’s intent is not part of the analysis. More than one Councilor told us that they believe that Councilor Camera’s intentions are good. One Councilor explained that Councilor Camera has “the best of intentions.” We have no reason to doubt that. However, the Tenet speaks about action and conduct. The Councilor shall “act” in the public interest and will “work” for the common good. Councilor Camera failed to comply with this Tenet in the following ways:

I. **The library meeting was not in the best interests of the public and, in fact, damaged the public by providing false or at least misleading information.**

A. **Library meeting was not in the public’s best interest.**

One reason the library meeting was not in the best interests of the public is because it was unnecessary. Although communication is always good and a public meeting does not need to be “necessary” in all instances, for a meeting to be in the public good, it should have a articulable function. Councilor Camera suggested the public meeting on the morning of November 7, 2016. Whether or not it was a good suggestion at that time is irrelevant because by 1:49 PM the City Manager emailed Council that he would advise Mr. Bunnell to not proceed with any due diligence and that “Any further action will need to be held until the December meeting.” As of Monday afternoon, there was no need to have a forum to “clear the air” or to provide a forum for the public to speak, because the public would have that forum on December 7, 2016 at the City Council Meeting.

Even though the meeting was no longer necessary, Councilor Camera spent time on Monday arranging for the Library meeting. At this point, he was not acting in the public’s interest because it is unclear what his goal was in setting up the Library meeting. His stated goals were to let the public speak and to clear the air and, perhaps, to better advertise the sale of the Waterloo Tract. All of those goals would be accomplished at the December Council meeting. Councilor Camera might not have been able to immediately inform the public that the Resolution would be considered at the December meeting, given the City Manager’s 3:33 PM email, but this is not a

situation in which time was of the essence. Councilor Camera himself had suggested a meeting “before Thanksgiving.” There was no emergency to schedule a November 9, 2016 Library meeting. If there were any ambiguity at all that the resolution would come up again in December, City Manager’s email on Tuesday, November 8, 2016, made it abundantly clear that a determination had been made by the City Attorneys that the November 2nd ratification had been insufficient and that the resolution would be presented again at the December council meeting. At that point, if not before, the library meeting served no purpose.

A second reason why the meeting was not in the best interests of the public is because Councilor Camera failed to inform other Council members of the Library meeting. Councilor Camera has admitted that he intentionally did not inform them because they had not been receptive to his November 7, 2016 email. The Committee notes that there is a view of some council that Councilor Camera was wrong in holding a “city wide” meeting, rather than a Ward 4 meeting. However, other Council members were of the view that there is nothing wrong with a city wide meeting and that a Council person is not limited to communicating with residents from other wards. Several Council persons noted that they get calls all the time from residents from other wards and treat the calls the same as if they were from their own ward. Geneva City Council may wish to clarify this issue in the future.

For the Committee’s purposes, based upon our factual investigation, we find nothing wrong with a Council person holding a meeting that is open to all residents of Geneva. However, we agree with the Mayor’s stated concern that Councilor Camera was acting as a “Council of 1.” A person who was present at the meeting called it the “Ken show.” Geneva City Council has a joint mission and works together for the common good of the people of Geneva. If a Council person is calling a meeting of all residents, it is imperative that the meeting information be shared with all Council. To do otherwise, to actively not share the information with Council because of a perceived past slight, is not acting in the best interests of the people of Geneva.

**B. Library meeting presented false, or at least misleading, information.**

Following the City Manager’s Tuesday, November 8<sup>th</sup> confidential email about the City Attorney’s determination that the ratification had been technically flawed, there clearly was a lot of important information to process and understand. Councilor D’Amico sought “sound, solid advice from Matt and our Attys” and Councilor Gramling asked for “a colloquy with the city attorneys for clarification” as “this is way too confusing to try and explain to our constituent.” Councilor Gramling’s main concern was that “I don’t want to give any misinformation out about this.”

Councilor Camera did not ask for any clarification and did not seek understanding. Instead he went to the Library with his pictures and tripod and communicated an array of mistaken information. For example, he stated “myself, the City Manager and some other councilors felt that we did not do a good [job] of presenting this issue in providing full details and notification to the public.” (Ex. C). This

is incorrect. There is no evidence to support the statement that other Councilors felt they did not do a good job. At most, there was an expression of concern that the RFP should have been advertised more vigorously, which is a separate and distinct issue from public notice. During interview, Councilor Camera agreed that he could not identify any council person who expressed that "we did not do a good job."

Councilor Camera also told the group:

By informing the City Council that I wanted to change my vote, I was expressing my position that the process we followed was flawed and effectively stopping the development process until the CC could meet again and hold this vote. *Id.*

This statement may have been relevant on November 7<sup>th</sup>, but by November 9<sup>th</sup>, it had no purpose other than to create a misleading narrative. On November 8, 2016, City Manager informed Council that the City Attorneys considered the Resolution to be technically flawed and for that reason, the resolution would need to be resubmitted to Council on December 7, 2016.

This important detail was completely lost in Councilor Camera's presentation, who reported to the library group:

Shortly thereafter, according to Camera, City Manager Matt Horn told Council via email that he felt that he "didn't do a good job" with the process. After being advised by the City attorney that the process may have been flawed, Horn stated that the land sale process should be re-done. (Ex. B).

This statement is wrong. There is no evidence to support the statement or the inference that the City Manager said he did not do a good job with the process (which in the context of this article referred to the overall public notice). During interview, Councilor Camera recalled an email from the City Manager accepting blame in some way, but he was unable to produce this email. Investigation revealed that the email he likely had in mind simply spoke to the technical error in presenting the Resolution.

Councilor Camera's November 10, 2016 email to Council and City Manager states:

The people in attendance wanted assurances from me that the process was at least stopped until further action by Council. (Ex. C).

This statement demonstrates that Councilor Camera simply did not read or did not understand the City Manager's November 8, 2016 email. If he had, he would have known that the process had already been stopped until the December Council meeting.

The overall impact of Councilor Camera's lack of understanding and his miscommunication to the public during the Library meeting cannot be quantitatively measured, but it is significant. No public interest was served by presenting false and misleading information and in fact damage was done. From interviews with people at the meeting, we know that the public spoke critically of other council for not being present at the meeting and praised Councilor Camera for his willingness to meet with the public. Overall there was a feeling of gratitude toward Councilor Camera and hostility toward Council. Councilor Camera did not explain that he did not inform other Council about the meeting. For that reason as well, the entire meeting damaged the public's view of Council, while heightening their view of Councilor Camera, thus creating a completely false narrative of the actual underlying events. To hold a public meeting, not invite other Council, and then convey false and misleading information is exactly the opposite of good stewardship and acting in the public's best interest.

**II. Councilor Camera did not act in the best interests of the public because he was not prepared.**

The above discussion highlights a number of ways in which Councilor Camera was not prepared in that he hosted the Library meeting and conveyed false and/or misleading information. This section focuses on a more fundamental way in which Councilor Camera failed to act in the public interest by not being prepared. It is difficult to reconcile his actions at the November 2, 2016 Council meeting, on the one hand, with his later view that Council was not prepared and did not do a good job. The only conclusion to be made is that Councilor Camera, himself, was not prepared to vote on the Resolution on November 2, 2016.

The Committee was present at the November 2, 2016 Council meeting and also viewed the relevant portions on video. <https://vimeo.com/191875145> (See starting at 15:50). Although Councilor Camera was not aware the November 2 vote on the Resolution was the final vote, he quickly accepted and agreed that Council was "voting on this tonight." (*Id.* at 17.05). He appeared fully informed and asked pertinent questions. (*Id.* at 18.17). Councilor Camera was present when Councilor Marino explained that she brought the agenda item to three (3) neighborhood committees and that they were against development on the lakefront, which they "have been fighting against for years." (*Id.* starting at 21:00). Councilor Camera saw advantages in the seasonal cottages, explaining that the occupants would come to Geneva because Geneva was the center of gravity. (*Id.* at 25). During discussion of a proposed amendment, Councilor Camera proposed possible language. (*Id.* at 28). In short, Camera appeared ready for the vote (even though he was not aware that it was the final vote), was fully engaged in the discussion, had stated reasons for approval of the Resolution, and appeared confident in his vote that the Resolution be adopted.

Yet, less than 48 hours later, at 1:14 PM on Friday, November 4, 2016, Councilor Camera was telling Meany: "If I had my druthers, I would have asked for another month of public discussion because it was not very well publicized by Staff." Even still,

Councilor Camera appeared satisfied with his vote in favor of the Resolution and told Meany four (4) reasons why he did so:

1. The City is kind of broke and needs the money.
2. The property is far enough away from our lake front that we don't violate an old understanding of not developing our immediate property across the street (at Castle) and which is pretty old now and many would consider not in force anymore (although I still do).
3. The project will benefit downtown and the City because this is where the guests at these 14 chalets will shop and play and eat dinner.
4. Selling the property permanently kills the deal of doing a land swap with the State for the piece on the lake (immediately west of the line of the State Park access road), which permanently reduces the chance of development in the future on the lake on a parcel closer to Geneva.

(November 4, 2016 email from Councilor Camera to Meany).

By Monday, November 7, 2016, Councilor Camera was asking Council "Do you really think that we did an adequate job publicizing this vote if all these people are concerned about what we did?" And on November 9, 2016 Councilor Camera was announcing to Geneva residents at the Library meeting that the city had done a "really bad job of publicizing (the sale)," that there should have been a map displayed during the public hearing, and that overall it was a "badly done process." (Ex. B).

During interview, Councilor Camera clarified that he believes that the City did comply with all relevant statutes and followed the process appropriately, but that the public did not see it that way. Councilor Camera also disclosed that he did not speak with any residents prior to voting on the Resolution. The Committee has learned from speaking with members of Council that whether and when to speak with residents prior to a vote is a policy choice made by each individual Council member. In this case, Councilor Camera determined that he did not need to speak with his constituents prior to his vote on the Resolution. The Committee has no issue with that decision.

The problem comes when Councilor Camera then changed his vote based upon public opinion. If Councilor Camera is going to weigh in public opinion as part of his decision on a given topic, he needs to decide that ahead of time. Had he done so, presumably he would have learned that his constituents were not in favor of the Resolution. He would have voted no on the Resolution and none of the ensuing turmoil would have occurred. Conversely, if his reasons for voting in favor of the Resolution have validity (which it appears he thought they did), then he is doing a disservice to the people of Geneva by letting himself be swayed by vocal citizens. By not understanding that the November 2, 2016 vote was to be the final vote, by casting his vote in favor of the Resolution and then changing it five (5) days later because certain of the public was unhappy, Councilor Camera demonstrated that he was not prepared for the November 2, 2016 Council meeting and was not acting in the best interests of the people of Geneva.

### **TENET 3: CONDUCT OF PUBLIC OFFICIALS**

Tenet 3 provides that the “professional and personal conduct” of Council members be “above reproach” and the Councilor “shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other Public Officials.” Based upon our factual investigation, the Committee has concluded that Councilor Camera violated Tenet 3.

During the Library meeting Councilor Camera described Council as “bumbling through” the process of the sale of the Waterloo tract. He said that he and other Councilors may have been “partly asleep at the switch.” During interview, Councilor Camera was unable to identify any Councilor specifically to whom he was referring when he made these statements. It appears from interview that Councilor Camera was making use of the royal we and did not intend to impugn any other Councilor. Nonetheless, he did refer to others in his statements at the Library. Councilor Camera agreed during interview that “bumbling through” and “asleep at the switch” address the character of a person. The Committee has concluded that the use of the phrases “bumbling through” and “asleep at the switch” do constitute attack on the character of other Councilors and for that reason, we have determined that Councilor Camera violated Tenet 3.

### **TENET 4: RESPECT FOR PROCESS**

Tenet 4 provides that Councilors:

shall perform their duties in accordance with processes established by the City Council, City Manager, or other appointing authority governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions.

Based upon our factual investigation, the Committee has concluded that Councilor Camera violated Tenet 4.

For clarity, the Committee wants to make clear that we do not see the holding of the Library meeting per se as disrespect for the process. Communication with the public is valuable and positive. As carried out in this case, however, the Library meeting was disrespectful of the process because Councilor Camera did not inform other Councilors about the meeting; because the meeting was no longer necessary to achieve the goals that Councilor Camera had stated he wanted; and because Councilor Camera provided false and misleading information to the people of Geneva at the meeting. For those reasons, Tenet 4 has been violated.

The scope of the violation goes further. In his November 10, 2016 email to

Council, Councilor Camera goes on at length about his discussion at the library:

In discussing what the next steps would be after that, we discussed many options:

1. Drop the effort to sell the property
2. Hold a public hearing on the project and have Matt start it by fully outlining the major elements of the project (by the way, this includes lots of time for people to go to the podium)
3. Revise the resolution and fully publicize it in a future Council Agenda
4. Hold a revote on a revised/updated/amended resolution at some point in the future
5. Start the RFP process over from scratch and present a model process for selling property the City will follow in the future.
6. Have a Comp Plan type discussion (more on that at the end) before anything else happens.

(Ex. C). For Councilor Camera to lead the people at the November 9, 2016 Library meeting in a discussion of possible future steps when the City Manager had advised the day before that the Resolution would be back on the December agenda (which is similar to # 3 on Councilor Camera's list) is an astonishing waste of time and a disrespect for the process and is, therefore, a violation of Tenet 4.

#### **TENET 5: CONDUCT OF PUBLIC MEETINGS**

Tenet 5 provides that Councilors shall:

prepare themselves for public issues, listen courteously and attentively to all public discussions before the body, and focus on the business at hand. They shall refrain from interrupting speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.

During the November 2, 2016 Council meeting, Councilor Camera listened courteously and attentively, he refrained from interrupting speakers, making personal comments not germane to the business of the body, and he did not interfere with the orderly conduct of the meeting. The Committee has determined Councilor Camera has violated Tenet 5 because he failed to "prepare [himself] for public issues."

Councilor Camera's failure to prepare is discussed above. It is worth repeating that Councilor Camera was not aware that the final vote on the Resolution was to take place on November 2, 2016. This alone establishes a violation of Tenet 5. In addition, it is important to stress that between November 2 and November 7, nothing changed about Councilor Camera's understanding of the benefits of selling the Waterloo Tract, other than receipt of citizen complaints. Councilor Camera should have decided long



before the vote if he wanted to speak to his constituents. He decided he did not need to; he voted for the Resolution and then later decided that he wanted to listen to his constituents and needed to change his vote. Because he changed his vote solely on information that he could have obtained prior to the November council meeting, a fortiori he was unprepared for the November meeting and his conduct violated Tenet 5.

## **TENET 10: CONFIDENTIAL INFORMATION**

Tenet 10 provides:

Public Officials shall respect the confidentiality of information as protected under the New York Open Meetings and Open Records laws, concerning the property, personnel, or other affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.

During the Library meeting, Councilor Camera disclosed information from the City Manager's November 8, 2016 confidential email and discussed details of Mr. Bunnell's proposals that had been discussed in Executive Session. Councilor Camera specifically made reference to "executive session" discussions during the Library meeting. The breach of Tenet 10 was one of the primary concerns of Council members with whom we spoke. The Committee has concluded that Councilor Camera violated Tenet 10.

The Committee's factual investigation revealed that much of what Councilor Camera spoke of at the Library meeting was no longer protected by the Executive Session privilege because of the Press Release the City Manager sent out at 5:52 AM on November 9, 2016. (Ex. A). Any information disclosed to the public via the Press Release can no longer be considered privileged, even though the Finger Lakes Times did not publish the information until November 10, 2016. As a result, any information contained in the Press Release was not protected by the Executive Session privilege during the evening of Councilor Camera's Library meeting.

Although Councilor Camera did not read the Press Release and did not know that the information had already been disclosed, the fact remains that much of the information he disclosed was not privileged at the time he disclosed it. The Press Release covers a discrete set of facts. Any communications about those facts (i.e. between Council members) that were not disclosed in the Press Release would remain privileged. Even though Councilor Camera's public interpretation of these communications was incorrect (making the matter worse), his disclosure of these privileged communications did violate Tenet 10.

Councilor Camera is aware of the Executive Session privilege. He volunteered during his interview that "perhaps" his mentioning the \$275,000 figure "was a breach" of Tenet 10. By disclosing details of the Waterloo Tract real estate transaction, without regard to whether or not it was still covered by the Executive Session privilege,

Councilor Camera failed to evidence “respect” for the “confidentiality of information” that he was disclosing and, for that reason, he violated Tenet 10.

The Committee notes that simply labeling an email “privileged and confidential” does not in fact make the communication privileged and confidential. This is especially true when the “privileged and confidential” communication turns into a long email chain. If ever challenged in court, each statement would be evaluated separately for a determination whether that particular piece of information came within the umbrella of an evidentiary privilege. However, the denotation of the communication as “privileged and confidential” at a minimum should be respected by the recipient and guidance should be requested before any information in the document is disclosed.

During our investigation we noticed uncertainty over the Executive Session privilege. A September 2016 email from Councilor Valentino, for example, seeks clarity on whether the Executive Session privilege was still in effect. In a September 12, 2016 email, the City Manager explained that:

In previous transactions, this is the path we have taken – which is to say that as long as we were in negotiations, it remained protected.

If that is so, then it may have been entirely appropriate for Councilor Camera, or any Councilor, to discuss the details of the Bunnell proposals with residents, as the matter was no longer in negotiations. The Press Release (Ex. A), for example, reveals information that presumably would not have been revealed if the Executive Session privilege were still in place. The Committee recommends that in the near future, the City Attorney holds a session with Council to explain the parameters of the Executive Session privilege and, specifically, when it ends.

### **TENET 13: ADVOCACY**

Tenet 13 provides that “when presenting their individual opinions and positions, Public Officials shall specifically state that they do not represent their body or the City of Geneva, nor will they allow the inference that they do.” On November 6, 2016, the Finger Lakes Time published a letter to the editor from Councilor Camera endorsing Kenan Baldrige for the State Senate, 54<sup>th</sup> District. Councilor Camera signed his letter “Geneva City Council, 4<sup>th</sup> Ward.” The Committee concludes that by signing his letter to the editor “Geneva City Council, 4<sup>th</sup> Ward”, Councilor Camera has violated Tenet 13.

Councilor Camera agrees that he violated this Tenet but is “sticking to [his] guns” because he thinks the violation is trivial. During interview, Councilor Camera did not agree that he was doing anything wrong and explained that he uses the signature “Geneva City Council, 4<sup>th</sup> Ward” simply to identify himself and not because he is attempting to represent the Geneva City Council. However, it is important to note that subsequent to the interview, Councilor Camera did sign his name as “Ken Camera” without further designation in a submittal to the Finger Lakes Times, “Guest Appearance: Thanks to the folks in Seneca Fall” (<http://www.fltimes.com/opinion/guest->

[appearance-thanks-to-the-folks-in-seneca-falls/article\\_cc28f0ec-cdd4-11e6-ba2a-7b83ac63d4d1.html](http://www.fingerlakes.com/appearance-thanks-to-the-folks-in-seneca-falls/article_cc28f0ec-cdd4-11e6-ba2a-7b83ac63d4d1.html)). Although the letter to the editor ends with the statement: "This letter was submitted on behalf of the signatories by Robert K. Camera who is the 4th Ward councilor for the city of Geneva", the Committee has confirmed with the Finger Lakes Times that it was the newspaper that added this designation, not Councilor Camera.

## **TENET 14: ROLE OF PUBLIC OFFICIALS**

Tenet 14 provides:

City Councilors shall respect the role of the City Manager, and vice versa. Councilors will determine policy with the advice, information, and analysis provided by the public, boards, commissions, and committees, and City Staff. Except as provided for by the Charter, Councilors shall not interfere with the administrative functions of the City or the professional duties of the City staff; nor shall they impair the ability of staff to implement Council policy.

Based upon our factual investigation, the Committee has concluded that Councilor Camera violated Tenet 14.

Tenet 14 presents the directive that Council, the City Manager and the City Attorney work together. The complexity of the Waterloo Tract and the Resolution is a good example of why this is important. Looking at the time frame between November 2 and November 9, there were a myriad of instances in which Council asked for guidance from the City Attorneys or from the City Manager. For example, on November 7<sup>th</sup> the City Manager emailed Council telling them "please do not speak to any constituent .... Regarding this matter until further notice. Your response to any request should be that the matter is under legal review. Mike Mirras will get back to me tomorrow with a recommended path forward." On November 9<sup>th</sup>, Councilor D'Amico emailed seeking "sound, solid advice from Matt and our Attys;" and Councilor Gramling emailed asking for a colloquy with the City Attorneys.

These are all examples of Council, the City Manager and the City Attorneys working together. Councilor Camera took the opposite approach. He did not seek guidance from the City Manager or the City Attorneys. Instead, he criticized the City Staff, starting with his November 4, 2016 email to Meany when he said that the sale of the property "was not very well publicized by Staff." The only time he sought guidance from the City Manager was in his November 10<sup>th</sup> email (Ex. C), in which he said: "Matt, i would appreciate any feedback on this email." At that point it was too late as he had already held the Library meeting during which he had communicated inaccurate information and falsely criticized the City Manager.

## CONCLUSION

Pursuant to § 26-6, any disciplinary action is up to the Council to determine. In conducting our investigation, the Committee spoke with a number of Councilors and invited all Councilors to speak with us if they wish. Should a Councilor or the City Manager wish to speak with us after review of this report, we would be happy to do so.

## RECOMMENDATIONS

In addition to our recommendation that the City Attorney and Council have a meeting to fully define and understand the Executive Session privilege (see above), we recommend that if the budget permits, the City Attorney be present at all executive sessions to provide immediate guidance and to confirm whether particular matters need to be in executive session.

We also make the following recommendations:

- The Committee recommends that the Code of Ethics be amended to permit Council to contact members of the Ethics Committee directly for guidance in particular situations.
- The Committee recommends that during the training session planned at the retreat, various hypothetical situations be set out in which a Tenet is violated, followed by a discussion about how a stated same goal could be met without violating a Tenet.
  - The reason for this recommendation is that in this case, for the most part, Councilor Camera has freely acknowledged that he violated the provisions of the Code of Ethics.
  - We think that a more organic approach to the Code of Ethics will help the Tenets resonate more clearly to Council.
  - We surmise that individuals (perhaps Councilor Camera here), believe that they need to violate the Code for Ethics for a greater good and that violating the Code of Ethics is the only way to make a point or to achieve a goal. It is understandable to have the mind frame in the heat of the moment.
  - In reality, that is never going to be the case. Here, for example, all of Councilor Camera's goals could have been met without violating any of the tenets of the Code. Only a few small changes would have been necessary. He could have held the library meeting and just listened for example (that was his stated purpose in his emails); he could have refrained from criticizing his fellow council or imputing their thoughts; he could have informed the Council of the meeting. There are

numerous ways that would have achieved his stated goal of listening to what the citizens were saying, without violating the Code of Ethics.

- The Committee also recommends that a discussion be held on timing considerations and that some of the hypothetical scenarios include timing issues.
  - In this case, there was no need to hold a meeting on November 9, 2016 at the Library. By that time, a revote was already going to be had the public would have the opportunity to comment at the December Council meeting.
  - By understanding that an action can wait, the Councilor will have more time to plan a course of action consistent with the Code of Ethics.
- Similarly, during the retreat Council could brain storm to see if they can come up with any scenario in which a Code of Ethics must be violated to achieve an appropriate mission.
- Council can also talk about when it may be necessary to seek advice from the City Attorney, the Mayor, other Council members, from the City Manager or from a member of the Ethics Committee<sup>1</sup>.
- The goal of the exercises is for Council to understand that if there are two ways to meet a goal and one way violates the Code of Ethics and one way does not, they can pick the way that does not violate the Code of Ethics and still accomplish their mission.
  - The goal is also to equip Council with the skills to understand how to achieve goals without violating the Code of Ethics and to know that they should factor timing issues into their decision making.
  - Additionally, the goal is for Council to understand that they do have options and also have the ability to ask for advice.

**Submitted by THE ETHICS COMMITTEE on January 2, 2017**

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<sup>1</sup> On this point, an amendment to the Code of Ethics would be necessary as currently there is no provision for the Ethics Committee to be contacted for advice.