

Dear Cairo, and the community at large,

In response to recent publications, I am sorry that you have had to endure and experience this unbecoming conduct from the Cairo Planning Board. Moreover, I am sorry that the Cairo Planning Board has misinformed you, misled you, disseminated false information, offered baseless and inflammatory accusations and remarks, violated Town procedures & policies, & behaved in a subversive manner unbecoming of what the Town of Cairo deserves. The Cairo Planning Board has engaged in sophistry. Sophistry, defined, is the use of fallacious arguments, especially with the intention of deceiving.

The process of developing the Zoning Law has been a wide open process from the beginning. Let me set the record straight with the following facts. The Town of Cairo embarked on a Zoning Law on June 4, 2007. The Zoning Commission was comprised of business owners, Cairo Planning Board members, local professionals, and hired consultants-including Certified Planners, a Hydrogeologist, and a Land Use Expert/Attorney. The Zoning Commission and its respected members produced a lucid, coherent, intelligible, articulate, and conscientious vision for the Town of Cairo thereby producing the Proposed Zoning Law Draft dated July 7, 2011.

The Zoning Commission held 60 public meetings. Print publications were developed and distributed, a website was developed and maintained regularly posting the applicable information, a Facebook page was formed and maintained, public hearings were held, a presentation of the Water Study was offered, public comments and feedback were sought, compiled, evaluated, and were responded to. On July 7, 2011 the Zoning Commission presented their proposed Zoning Law to the Town Board(Town Board members during that calendar year did not meet to discuss the proposed Zoning Law).

On April 11, 2012, the Town Board-with 3 new members-commenced a review of the proposed Zoning Law. Of special importance to note, the Town Board could have assigned two Board members to review the document with our consultant(s), however, I asked the entire Board to evaluate the proposed Zoning Law in another effort to create and sustain consensus government-which is a theme and fabric of the two administrations that I have presided over; as a result, the entire Town Board has been involved in developing the major decisions and policies of this Town. The Town Board did not have to review the proposed draft, nor did the entire Town Board have to review the document, but in doing so, since more than 3 Town Board members would be present, the Town Board held public meetings.

To date, there have been 45 or more public Town Board meetings. The information for this process has been maintained on the Town of Cairo's website with links, documents, and resources; including the Zoning Commission's information. On September 25, 2013 a Public Hearing was held. After which, a lengthy and thorough public feedback process & evaluation occurred. In total, there have been more than 109 public meetings for the Zoning process, and one more public hearing will be scheduled. In addition, the Greene County Planning Board has approved two presented drafts of the Zoning Law.

Last year, the Cairo Planning Board requested the opportunity to offer comments regarding the Zoning Law. Even though they have no role legally in the process(as per the NY State Town

Law), the Town Board granted their request to be able to provide comment. Their submitted comments were evaluated and reviewed.

Next, let me address the false accusation that the Town Board of Cairo has had "...secretive, improper, and possibly illegal conduct pertaining to their current review..." Two attorneys with 50 or more combined years of experience have directed the Town Board of Cairo in the matter of our review and its content since the inception of the Town Board's Zoning process. Yes, out of more than 109 meetings several meetings were held in closed session with our attorneys. This was done at their recommendation. Incidentally, the four Town Board members that were present at the time that this discussion took place to have these meetings with the attorneys all agreed to the meetings-present were Mary Jo Cords, Dan Joyce, Doug Ostrander, and Ted Banta. The purpose of those meetings was to obtain legal advice from those attorneys concerning legal matters which arose during the course of the review. Closed meetings for that limited purpose, which happens as a matter of course in many local governments, is something that is allowed by the New York State Open Meetings Law (OML). OML Section 108 sets forth the exemptions, and Section 180(3) exempts "...any matter made confidential by federal or state law". When an attorney-client relationship has been invoked, it is considered confidential under Section 4503 of the New York Civil Practice Law & Rules. Hence, the NYS Committee on Open Government has ruled that if an attorney and client establish a privileged relationship, the communications made pursuant to that relationship are confidential under State law, and therefore, exempt from the OML. The courts have long held that a municipal board may establish a privileged relationship with its attorney and that relationship is operable when a municipal board seeks the legal advice of an attorney. Further, the NYS Committee on Open Government has said that, insofar as a public body seeks legal advice from its attorney and the attorney renders legal advice, the attorney-client privilege may be validly asserted and communications within the scope of that privilege would be outside the coverage of the Open Meetings Law.

Thus, Mr. Benoit has falsely portrayed these meetings as a secretive and "possibly illegal". They were neither. Mr. Benoit's portrayal ignores the overwhelming facts described about the long history of openness of this process, and mischaracterizes the law.

The Town Board of Cairo, in a consensus fashion, developed and reviewed the Zoning Law. The Town Board of Cairo makes policy for the Town. The planning board does not. They are employees of the Town, appointed by the Town Board and they have been purposeful. They have provided a sometimes clear, sometimes informative, however fallible, and skewed review of the Zoning Law.

What's more, in its comments to the Town Board, the Planning Board revealed its anti-zoning agenda. While the Planning Board did offer some good and useful comments on the draft zoning law, their comments also often advocated drastic changes to the proposed law which would have had the effect of gutting the effectiveness of the zoning law.

And at this juncture, I would remind you that land use policy decisions, of which the choice to adopt a zoning law is one, are solely within the jurisdiction of the Town Board, not the Planning Board. The Town Board is your legislature, your local elected officials. The Planning Board

members are appointed. And their function is limited. Their function is to implement the Town land use laws after they've been adopted by the Town Board. As I noted earlier, they have no legal role in the process of developing and adopting a zoning law. Mr. Benoit and the Planning Board have attempted to infringe on the Town Board's authority and derail the zoning law. And now, due to Mr. Benoit's candidacy for Supervisor, the political nature of those motives have been revealed.

Furthermore, the Cairo Planning Board has conducted themselves in violation of Town policy and procedures violating Section 509 of the Employee Handbook Social Networking & Messaging Issues where it states, in part, that "Town logos and trademarks may not be used without written consent from the Town Board". And that, "You are not authorized to speak on behalf of the Town, or to represent that you do so."

The Town Board of Cairo has intelligently, deliberatively, thoroughly, and exhaustively developed the Zoning Law. It is a fair, balanced, transparent, and intelligent document representing the various aspects, interests, and visions of its community. The Town Board has truly honored the democratic process and evidenced the same. The Town Board and its predecessor, the Zoning Commission has had more than 109 public meetings and an engaging and collaborative public comment and feedback process for its community. Some members of our community are simply trying to make the public afraid of it. Our County Economic advisors, state that it is time that Cairo adopts Zoning as it has been more than 8 years that the Town has been developing it. They state that it is time for "business certainty".

Ted Banta

Town Supervisor