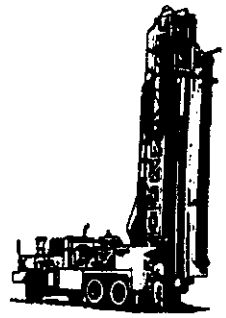




## Boyd Artesian Well Co., Inc.

1054 Rte. 52  
Carmel, N.Y. 10512  
(845) 225-3196  
Fax (845) 225-8420



July 24, 2019

County Executive MaryEllen Odell  
40 Gleneida Avenue  
Carmel, NY 10512

Re: Amendment to Chapter 55 of the Code of Putnam County  
Ethics Code of/and Financial Disclosure

Dear MaryEllen,

I would like to thank you for what you do and have done for Putnam County. I am really upset with what the Legislature is trying to do with this amendment. Over the years, I have worked with Legislature on items related to regulations in county and have done business with the county. I am very proud to operate my business from Putnam County.

Now this amendment the Legislature has passed and is on your desk, upsets me very much. We already have guidelines for what should be stamped confidential. I do not know why we need to make our county more restrictive. First of all, this is the USA. We do not live in a closed society such as the Soviet Union where the party has its secrets. If the Legislature seems to have employee problems leaking information, then deal with it through the personnel office. As a contractor that has done work with the County, I do not want or see the need to be able to stamp confidentiality on documents. I also want to be able to foil information, if I am so inclined. Business is not great in New York; this amendment is going to cost taxpayers and business owners more money to pay for frivolous lawsuits. You know this will get challenged. I ask you to please veto this amendment.

Thank you again for the time and service to the County and our community.

Sincerely,

Henry M. Boyd

My name is Tim Miller and I am a resident of Philipstown and a business owner in the Village of Cold Spring.

I was the town planner for the Philipstown for 19 years and a consulting planner to many municipalities during the past 35 years. Through this experience, I have become familiar with the Freedom Of Information Law and its important expansion and evolution in promoting transparency and openness in Government.

When I was first hired as The town planner in Philipstown in 1990, I was stunned at the amount of ex-parte discussions that took place between town officials and influential town citizens, and local developers in pursuit of their own personal interests and agendas when matters came before the planning board, zoning board and town board.

My use of the term ex parte in this instance means a private discussion brought by one party in the absence of and without representation or notification of another party. It is often used loosely to refer to improper unilateral contacts with a governmental official without notice to the other party.

I am well aware of various shenanigans that took place between certain planning board members, local "good old boys", people with grudges and bones to pick, and special

interests. These shenanigans invariably occurred behind closed doors and were never revealed to the public. However they often set the stage for decision-making long before a public hearing took place leaving the general public in the dark.

We all know that this type of thing happens in local government, like it or not. And it is simply not right.

As Town Planner, I avoided such interactions. I took my mandate seriously which was to review all applications as to whether or not they conformed with town subdivision, zoning and environmental laws.

I did my best to be transparent and any memo that I submitted to the town could readily be foiled.

I never once considered labeling anything "Confidential", even if I knew that the public may disagree with me and criticize me or even ridicule me at public hearings or in local papers.

My advice to my planning board and any citizen that appeared before it was to always reference our town code.

And as a person charged with implementing local law, I found it critical whether our local code permitted or prohibited a proposed action.

Beyond that personal opinions mattered very little under the legislative mandates of our town's code.

What is true then, is that the language of our local governmental laws is very important in guiding the behavior of elected officials. And acknowledging and protecting the rights of its citizens.

In the 1990's New York State enacted and subsequently modified an improved version of its Freedom of Information Law. That law specifically states as a legislative declaration...

#### **§84. Legislative declaration.**

The legislature hereby finds that a free society is maintained when government is responsive and responsible to the public, and when the public is aware of governmental actions. The more open a government is with its citizenry, the greater the understanding and participation of the public in government.

As state and local government services increase and public problems become more sophisticated and complex and therefore harder to solve, and with the resultant increase in revenues and expenditures, it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible.

The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality. The legislature therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article.

Chapter 87 of the New York State law states that:

(b) Each agency shall promulgate rules and regulations, in conformity with this article and applicable rules and regulations promulgated pursuant to the provisions of paragraph (a) of this subdivision, and pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article.

Putnam County is of course an agency, as defined by the State of New York Freedom of Information Law.

The state law goes on to state what is and what is not subject to a FOIL request, which I am sure this legislative body is familiar with.

The protection of citizen privacy of course, when appropriate, is fully addressed in our State Code.

This background therefore is the reason I must express my concern and my objection to this proposed amendment. Specifically the following provision in Section 1 of the definitions of the proposed local law states that

Confidential materials are defined to include the following:

"Any record designated "confidential" by any Putnam County officer or employee, or by outside legal counsel or consultant to any agency or the legislation of Putnam County who is the creator or sender of such record."

This broad sweeping definition of confidential is blatantly inconsistent with the legislative intent of our State Freedom of Information Law, which I remind you again states:

*Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality. The legislature therefore declares that government is the public's business and that the public, individually and collectively and represented by a free press, should have access to the records of government in accordance with the provisions of this article.*

This amendment to Putnam County chapter 55 which is under consideration tonight basically allows any employee, outside consultant, legislator, whether or not they have a background in legal matters or familiarity with New York State FOIL regulations, to willy nilly declare any or all of

its reports, correspondence, memos or records confidential and therefore hide it from public view.

Not only is this inconsistent with New York State law and likely to be challenged, it is a sad statement about the morality, transparency and openness of our own county government.

If there is something that is to be properly deemed confidential, take the time and forethought to define what it is. That is responsible law making. Amend this proposed law further. Moreover, require County attorneys to review anything labeled confidential to be certain it meets the proper criteria under state law to be considered confidential.

I will not say "shame on you" even though I heard others voice that comment earlier this month before the legislature. It is not my job to shame anyone.

What I would ask you, Ms. County Executive is to answer me this. What motivates this broad sweeping definition of confidential material and its clear intention to hide the conduct of government from the very people that have chosen you to serve and protect them?

Beyond protecting the privacy of citizens in certain instances, what else needs to be hidden from the people you work for?

Could you answer this question tonight, before you sign this law into legislation?

Thank you.

Tim Miller

Garrison, New York.