

Part 5 –Smoke and Mirrors

By Doug Baird

Participation Circumvention

“The participation of citizens in an open, responsible and flexible planning process is essential to the designing of the optimum town comprehensive plan.” — Town Law § 272-a

Although New York State Town Law stresses the importance of an open and responsibly designed town comprehensive plan, many local officials downplay this document, claiming the local comp plan is only a “guide” — and hide their agenda behind the minimum legal requirements for public meetings and the placement of notifications that exclude the community from participation.

The town of Lansing, like many rural communities, uses posters, banners and signs along the roadside in community centers to generate interest and participation in everything from chicken barbecues for school sports to town concerts. The Town of Lansing government, although it is currently using a large display board for notification of a boat slip raffle, never placed one sign, or used any other similar means to advertise the town’s comprehensive plan meeting to the community. Notifications were placed in two newspapers [the minimum legal requirement] and, in spite of the low readership and extremely poor results, no further efforts were ever undertaken.

The public meeting for the Lansing Comprehensive Plan draft was a segment of a regular Town Board meeting, with a scattering of residents being told it was only as a favor they were permitted to speak, and given a couple of minutes to do so, with no questions allowed. It was an action that directly contradicted the State’s intent and the “duty” and “responsibility” of Lansing’s municipal government to “assure full opportunity for citizen participation in the preparation of such proposed plan.”

Why are so many county, town and village officials anxious to prevent community residents from having a voice in the future of Tompkins County?

The public and private maneuverings of Tompkins County legislators to minimize the importance of these comprehensive plans and exclude meaningful community participation — urging local government to abdicate their duty and responsibility under Town Law, and ultimately to give over local power to County politicians and influential private interests — is the subject of this blog.

New York Town Law § 272-a. Town comprehensive plan

Legislative findings and intent.

“The legislature hereby finds and determines that: Among the most important powers and duties granted by the legislature to a town government is the authority and responsibility to undertake town comprehensive planning and to regulate land use for the purpose of protecting the public health, safety and general welfare of its citizens.”

It is the intent of New York State Town Law § 272-a that both local planning boards and the town boards “assure full opportunity for citizen participation in the preparation of such proposed plan”

To make the preceding as clear as possible, and beyond even bureaucratic quibbling; here are legal definitions of those words:

- Assure: to make certain; to inform positively, as to remove doubt; to convince.
- Full: abundant; brimming over; comprehensive; exhaustive; filled to utmost capacity.
- Opportunity: fair chance; proper time; reasonable chance; suitable circumstance; suitable occasion; suitable time.

No matter which way these words are interpreted, they denote a legislative intent that was never even remotely fulfilled by the municipalities granted the authority and charged with the responsibility of these “most important powers and duties.”

The Face in the Shadows

“Pay no attention to the man behind the curtain!” — L. Frank Baum, *The Wonderful Wizard of Oz*

According to the Tompkins County Comprehensive Plan:

“The County’s plan is based on the understanding that certain issues are regional in nature; cannot be fully addressed solely at the city, town, and village level ; and require proactive cooperation among all levels of government.”

- Since the County considers Housing Choices, Transportation Choices, Jobs and Business, Development in the city, villages and [County] designated nodes, and Rural Resources (the importance of agriculture and the need to protect farmland), all to be regional issues — they want to regulate everything. [Note that, once again, the importance of protecting agricultural interests is the only issue that the County’s plan recognizes for rural residents.]

The County’s plan requires “proactive cooperation among all levels of government.”

- Proactive cooperation is defined as: “two or more individuals cooperating together and acting in advance to deal with an expected difficulty.” In this case, the expected difficulty is the participation of Tompkins County’s residents.

Tompkins County legislators see themselves as rulers, rather than representatives, and have taken steps to ensure that their doctrine will become our laws — urging local municipalities to let the County decide local planning:

“Often, local municipalities have a full workload simply addressing the important day-to-day issues of local concern. Planning at the county level can help municipal governments address key issues of concern that cross municipal boundaries, such as sprawl, economic development, housing affordability, and environmental protection.” — Tompkins County Comprehensive Plan

This attempt to subvert the “duty” and “responsibility” of local officials and planners as set forth by the New York State Legislature has, for the most part, been successful. The trail of policy choices flowing directly from the County into “local” plans, without public scrutiny or any meaningful local participation is a common thread in the towns and villages surrounding Ithaca.

Comprehensive Confidence Tricks

“A lie that is half-truth is the darkest of all lies.” — Alfred Tennyson

The “ten elements already included in the Comprehensive Plan” by Tompkins County legislators, before the first community survey was even announced, are unchanged in the final document.

The Comp Plan’s “kickoff survey” was a vague, generalized 19 question survey that used loaded terms like “Healthy Communities” to fish for results that would support the policies that County planners and politicians had already decided on. [Who wouldn’t vote for a healthy community?]

“Two additional topic areas were identified” from a list of thirteen possible choices supplied by the County, but this made no meaningful difference to the final County Plan:

- “Affordable living,” was the survey topic with the largest vote. It is mentioned only five times in the final Comp Plan, and four of those times were in the “kickoff survey” description. There was never any discussion of what affordable living in Tompkins County should be. Interestingly, the County’s Plan states “Overall, supporting livable wages for workers is a major goal and the moral underpinning of the Tompkins County Legislature’s approach to economic development.” But since that “overall” means “in general,” their “moral underpinning” is decidedly porous. Maybe that’s why so many rural residents won’t be able to afford “affordable living.”
- “Healthy and safe communities” is a combination of two elements: Public Safety, #2 in the voting, and the #5 choice, Healthy Communities. The survey’s description stated: “Public Safety would examine the current system of providing police, fire and emergency medical services. It would investigate issues related to sustaining volunteer fire departments, opportunities for shared services and facilities, and impacts of development decisions on service providers and public safety,” but the final comp plan never fulfilled on this promise, except to use it for “rural bashing”: “In rural and suburban areas strain has been placed on volunteer fire departments and other emergency services to meet the needs of a dispersed community.”

Counter Resolution

The County’s reaction to comments critical of their Comp Plan draft was both defensive and dismissive.

When one reviewer of the Comp Plan draft made the following observation:

- “Also, efforts to acquaint citizens with this plan which will, by design, touch each and every resident of Tompkins County are pitiful to non-existent. There were 4 meetings attended by a total of 70 individuals out of a Tompkins County population of 101,570.”

the County's response to this indictment showed complete unconcern for this lack of public participation in the planning process:

- "Listening to Community Voices describes the considerable efforts to involve the public at three separate stages in preparing the Comprehensive Plan."

And in response to the comments:

- "Can there be a policy that prioritizes transportation investments for the 'transportation insecure' – especially low-income families with children in rural areas."
- "I think it's important to pay attention to the needs of rural residents. In addition to fixed-route what is possible as a systematic approach to meeting public transit needs."

the County made the following "substantive change":

- "Proposed Policy: Consider the needs of populations that are particularly challenged by transportation when developing systems and alternatives."

It is important to note here that the County refused to acknowledge that rural residents have special problems or needs by expunging the word "rural" from their policy statement.

To the request for equality:

- "Overarching principle – looking out for rural landowners (Broaden the idea so people are as important as the rest of it.) All residents matter/ every resident matters."

the County replied:

- "A Foreword was added to explain how the principles, policies and actions of the Comprehensive Plan can contribute to a positive future for both urban and rural residents of the County."

It's not surprising that the Tompkins County legislature would refuse to commit to any statement that acknowledges the fundamental importance of every human being — an analysis of the County's Foreword [in *Part 3 – Whose Comp Plan is This, Anyway?*] exposed the following underlying policy:

This plan is based on values that reflect the principles of the County's [Democratic] legislature. It uses local regulations to place burdens on individuals and businesses in serving that agenda and restricts individuals in their choice of where and how they can live.

Like snakes in snake oil, the County legislature squirms around every issue of human dignity and worth. If you could polygraph the Tompkins County Comprehensive Plan, it would "show deception" on every page.

Their claim of "proactive cooperation" is an excuse to block the public from any meaningful participation in the preparation of local comprehensive plans, and directly contradicts the legislative intent of New York Town Law.