

Resolution No. _____

Resolution Repudiating the Callaway Report and Condemning the Use of Taxpayer Funds for Politically-Motivated Investigations

WHEREAS, the Mayor and Village Administrator initiated an unauthorized investigation of Jim Cosler, a Village elected trustee, purportedly pursuant to the Village of Cary Employee Handbook and the State Officials and Employees Ethics Act, 5 ILCS 430/1 et. seq., neither of which apply to personal issues between the Village's elected officials, which culminated in a biased and prejudicial report prepared by Engler, Callaway, Baasten and Sraga, LLC, and dated March 29, 2018 (the "Investigation Report").

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Cary, McHenry County, Illinois, as follows:

1. The Investigation Report and any and all findings and conclusions contained within are hereby rejected and repudiated by the Village Board of Cary and the report is found to be unauthorized, baseless, prejudicial, and political as follows:

A. Actions used to initiate, process, and finalize the Investigation Report violated Trustee Cosler's due process rights, specifically, his right to be informed of the specific allegations being made against him, before being questioned by the mayor/administrator hired Callaway attorney.

B. The intentional leak of such illegally created document irreparably harmed an established standard of trust and ethics and was initiated to cause a detrimental impact on Trustee Cosler's reputation and standing in the community. The improperly authorized and created Investigation Report was then transferred from the Village files to the Northwest Herald for prejudicial and political purposes.

C. The Board repudiates the use of taxpayer funds for politically motivated investigations.

D. The Board agrees with findings from Attorney John Murphey dated April 5, 2018 in which he states, "*it is my opinion that the conduct of Trustee Cosler as described in Ms. Callaway's report does not constitute a violation of the Village's harassment policy or governing law.*" (Exhibit A).

2. The Mayor and Village Administrator acted without authority to enter into a contract with and retain the Callaway lawyer, at a cost of more than \$5,000, to conduct an investigation of Trustee Cosler. This action violated the Village Procurement Code, sections 3.04.040 and 050 (Exhibit B).

A. The Mayor and Village Administrator acted without authority to authorize the investigation of Trustee Cosler, at a cost of more than \$5,000 for alleged violations of the Village Harassment Code and the State Officials and Employees Ethics Act. Neither of these governing ordinances/laws apply to disputes between elected officials. Even if the State Officials and Employees Ethics Act had applied, the Mayor and Village Administrator improperly exercised jurisdiction over the investigation instead of properly assigning the matter to an Ethics Commission per Village Ordinance.

3. This Board disagrees with the recommendations given by Village attorneys, at the time Ancel Glink, to initiate an investigation without proper legal basis. The firm knew or should have known that taxpayer funds were being spent on an investigation of Trustee Cosler; they knew or should have known that the Village's employee handbook and the State Officials and Employees Ethics Act does not apply to political disagreements among Village officials; and they knew or should have known this was an illegal investigation financed by the unauthorized use of taxpayer funds. As the Village attorneys, the law firm's recommendation of such an investigation equated to a breach of their duty to the full Board of Trustees.

4. Trustee Cosler's numerous requests of the Mayor to be seated at the Village Board table in a seat other than one next to Trustee McAlpine have been ignored by the Mayor and the request should be honored at the next Village Board meeting of December 4, 2018.

5. A copy of this Resolution shall be placed on the Village's website, be made available at no charge to the public and upon the production of the Investigation Report to anyone, a copy of this Resolution shall be attached thereto.

6. The entire audio recording of the Village Board executive session on June 5, 2018 shall be released and available to those who request it, without need to submit a Freedom of Information Act request.

7. At the next Village Board meeting the Administrator's actions will be reviewed and his performance will be evaluated.

Passed this _____ day of November, 2018.

	Ayes	Nays	Absent	Abstain
Trustee Christine Betz	_____	_____	_____	_____
Trustee Jim Cosler	_____	_____	_____	_____
Trustee Kimberly Covelli	_____	_____	_____	_____
Trustee Jeff Kraus	_____	_____	_____	_____
Trustee Ellen McAlpine	_____	_____	_____	_____
Trustee Jennifer Weinhammer	_____	_____	_____	_____

Mark Kownick, Mayor

ATTEST:

_____, Village Clerk

