

----- Original message -----

From: steve panton <stevepanton@airpost.net>

To: Alisha Bell <Abell3@waynecounty.com>, Jonathan Kinloch <Jkinloch@waynecounty.com>, Tim Killeen <tkilleen@waynecounty.com>, "Martha G. Scott" <Mscott2@waynecounty.com>, Ilona Varga <ivarga@waynecounty.com>, Irma Clark-Coleman <Iclark@waynecounty.com>, Monique Baker McCormick <mbmccormick@waynecounty.com>, David Knezek <davidknezek@waynecounty.com>, Terry Marecki <tmarecki@waynecounty.com>, Melissa Daub <Mdaub@waynecounty.com>, Abdul Haidous <ahaidous@waynecounty.com>, District12 Commissioner <District12@waynecounty.com>, Sam Baydoun <Sbaydoun@waynecounty.com>, Raymond Basham <Rbasham@waynecounty.com>, Joseph Palamara <jpalamar@waynecounty.com>

Cc: Pamela Lane <plane@waynecounty.com>, Ombudsman

<Ombudsman@waynecounty.com>, abrahamaiyash@house.mi.gov, SChang@senate.michigan.gov

Subject: Re: URGENT: Submission regarding the WC Art Institute Authority for the May 19 meeting of the Commission

Date: Wednesday, May 18, 2022 4:05 PM

Greetings Chair Bell and Wayne County Commissioners,

I want to thank Ms. Lane for her quick response to my e-mail of May 4, 2022, regarding my opposition to the reappointment of five long-term members of the Art Authority in preference to at least four highly qualified new applicants. I have inserted my comments to Ms. Lane's e-mail below to provide Commissioners with a more complete picture of the situation.

I also want to thank Ms. Lane and her colleagues for their efforts to bring the Art Authority into compliance with best practices and with the documents that govern its operations. I do not see this as an adversarial process. I believe everyone is working together to bring the Art Authority back to a state of compliance and best practice.

Where we might disagree is that I do not believe that the five current board members, who share a collective responsibility for previous poor practices and lack of compliance, can justifiably be reappointed. For example, it bears repeating that the board members seeking reappointment were for almost a decade part of an Authority that transferred an estimated \$70M of citizens' money to the DIA while failing to perform a single annual financial audit, as required by MI Act 296 of 2010. This lack of fiscal responsibility alone should be sufficient to disqualify them from reappointment.

Over the next 10 years, the Art Authority will transfer around \$100M to the DIA. I believe that questions that are currently being asked at the state level of what the DIA is doing with the money will eventually start to question the lack of oversight by the Art Authorities. Based on the failings of the Wayne County Art Authority over the last ten years, there will be plenty of blame to go around.

I also want to expand on Ms. Lane's statement that *"The current service agreement was negotiated by the Art Authority."* The current service agreement only accounts for \$550k (or 5-6%) of the estimated \$9.6M of millage money sent annually by the Art Authority to the DIA. The remainder (94-95%) is spent entirely at the DIA's discretion. By Commissioner Killeen's own admission, the current service agreement was written by the DIA's lawyers and adopted without amendment by the Art Authority. So,

in simple terms, the current service agreement only accounts for a small percentage of the millage money and was written by the DIA's lawyers without challenge by the members of the Art Authority. Again, this disregard for accountability should be sufficient to disqualify the current board members from reappointment.

A related issue is whether authority members can also serve on the board of the DIA without conflict of interest. The matter becomes critical during the upcoming negotiation of the new service agreement. The DIA is the service provider, yet board members of the DIA are involved in negotiating on behalf of the residents of Wayne County. There is a broader issue as to what governs the ethics of the Art Authority members as it relates to their dealings with the DIA. You should be aware that at least one of the board members seeking reappointment also serves on the board of the DIA.

The Macomb County Art Authority, by contrast, makes a clear separation; the Art Authority represents the interests of the residents of Macomb County, and the DIA board represents the DIA's interests; no member of the DIA board can sit on the Art Authority. My understanding is that they also stay within the terms of Macomb County's Ethics Ordinance. I think it would be wise to study the Macomb County Art Authority as a best practice to avoid potential conflict of interest and ethics issues at a later stage.

My understanding is that the reappointment of the five current Art Authority members is on the agenda for the Full Commission on Thursday, May 19. At this meeting, Commissioners will be responsible for assessing the five current Art Authorities members' performance and deciding whether they are worthy of reappointment. I think it is clear that no reasonable person could look at the performance of the five Authority members over the last decade and say this is the case. They have failed in all their core responsibilities and failed even to adhere to the documents that govern the Authority's operations.

For this reason, I ask you to reject the recommendation to reappoint the current five incumbents of the Art Authority and instead reconsider the 4 or 5 other highly qualified and motivated new candidates.

If you do decide to reappoint the current five incumbents, be aware that this action is likely to come under a great deal of scrutiny from numerous directions.

Very best wishes and please do not hesitate to contact me if you have questions.

Steve Panton

On Wed, May 4, 2022, at 2:23 PM, Pamela Lane wrote:

Good afternoon Mr. Panton,

The Wayne County Commission ("Commission") is in receipt of your communication dated May 4, 2022, regarding the Wayne County Art Institute Authority ("Art Authority"). Thank you for bringing your concerns to the Commission's attention.

The Art Authority is a separate legal entity from the County of Wayne. While the Commission and Wayne County Executive appoint members to the Art Authority's board, the Art Authority's board operates the Art Authority.

It is the Commission's understanding and belief that all Freedom of Information Act

requests submitted to the Art Authority have been responded to in compliance with the law. It is also the Commission's understanding and belief that the Art Authority has operated in full compliance with the Open Meetings Act.

The FOIA request was submitted on Sept 7, 2020 and a response was received on October 26, 2020. On October 19, 2020, a Wayne County Art Institute Authority web page was created with a list of board members and a meeting schedule.

Your prompt attention to this matter is recognized and appreciated but does not alter the fact that prior to the FOIA request and the subsequent launch of the web page, it was practically impossible for members of the public to attend Art Authority meetings.

You have expressed concerns regarding the audits of the Art Authority. The Art Institute Authorities Act ("Act") at MCL 123.1229 and Article V of the Art Authority's Articles of Incorporation require the Art Authority to "obtain an annual audit of the authority, and report on the audit and auditing procedures, in the manner provided ... the uniform budgeting and accounting act..." On February 28, 2022, the Art Authority issued a Request for Price Quote for audit services for calendar years ending 2021 through 2024. It is anticipated that the audit services will begin later this year. It is the Commission's understanding that the Art Authority will take necessary actions to ensure that it is in compliance with the audit requirements.

My point was regarding the lack of an annual audit for the period 2013-2020.

Your prompt attention to bringing the Art Authority into compliance moving forward is recognized and appreciated but does not alter the lack of an annual audit for the first eight years of the Art Authority's operation.

With regards to your inquiry regarding term limits for Art Authority board members, neither the Act nor the Articles of Incorporation establish term limits for board members. Article III of the Articles of Incorporation provides that members are appointed to 2-year terms of office, but does not limit the number of terms a member may serve. A member is not limited in the number of years he/she may serve on the board.

Thank you for clarifying the correct language. The five members were appointed in 2012 to terms ending on May 16, 2014. Based on a term length of 2 years, the members should theoretically have been reappointed in May of 2014, 2016, 2018, and 2020. They were actually reappointed in March 2016, February 2019, and March 2021. In total, they operated beyond the terms of their appointment for 41 months out of a total of 120 months, or approximately a third of the time.

Like all matters that appear before the Commission, members of the public were welcome and were given an opportunity to address the appointments to the Art Authority's board. On April 27, 2022, the Commission's Committee on Government Operations considered

the appointments to the Art Authority's board and members of the public were given an opportunity to address the Committee. The appointments will be considered by the Commission at its 10 a.m. full board meeting on May 5, 2022. At that time, members of the public will once again be given an opportunity to address the Commission with regards to the appointments.

In principle, that may be true, but in practice, interested parties had no way of knowing that the issue would be discussed by the Government Operations Committee on April 27.

At least one applicant was told in writing that *"The board members are appointed and approved by the Wayne County Commission. The Commissioners review the resumes and bios of potential candidates before voting on the appointment to the board. Candidates are notified when a vote is scheduled to take place so they may attend the meeting and speak to the Commission"*

Based on this, applicants might reasonably have expected to be notified and given the opportunity to speak to the Commission. I understand from people who are familiar with the operations of the Commission that this is normal practice, and I question why it did not happen in this case.

With regards to your inquiry regarding the service agreement, the current service agreement expires on December 31, 2023. In accordance with the Act and the Articles of Incorporation, the Art Authority negotiates and contracts with the art institute for the service agreement. The current service agreement was negotiated by the Art Authority. The Commission is confident that the Art Authority will, as it did with the original service agreement, negotiate the appropriate services and discounts for the benefit of Wayne County residents.

That date is correct, but my point was about the renegotiation process which, as you know, is planned to take place later this year.

The current service agreement only accounts for \$550k (or 5-6%) of the estimated \$9.6M of millage money sent annually by the WCAIA to the DIA. The remainder (94-95%) is spent entirely at the DIA's discretion. I do not believe that the current service agreement was negotiated by the Art Authority, I understand that it was written by the DIA's lawyers and adopted without amendment by the Art Authority.

Based on its previous record, I do not share your confidence that *"the Art Authority will, as it did with the original service agreement, negotiate the appropriate services and discounts for the benefit of Wayne County residents."*

On behalf of all Commissioners, thank you for your communication. Your concerns will be given due consideration.

Likewise, thank you for your efforts to bring the Art Authority into compliance with best practices and the documents that govern its operations.

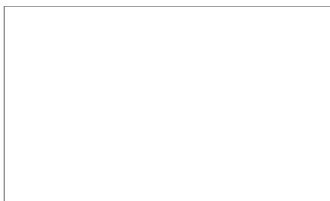
I do not see this as an adversarial process. It is in everyone's interest to bring the Art Authority back into compliance with best practices and the documents that govern its operations.

My concern is that the people who caused the Art Authority to get into this state should not be reappointed.

Best,

Pamela Lane, Esquire
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From: steve panton <stevepanton@airpost.net>

Sent: Wednesday, May 4, 2022 6:17 AM

To: Alisha Bell <Abell3@waynecounty.com>; Jonathan Kinloch <Jkinloch@waynecounty.com>; Tim Killeen <tkilleen@waynecounty.com>; Martha G. Scott <Mscott2@waynecounty.com>; Ilona Varga <ivarga@waynecounty.com>; Irma Clark-Coleman <Iclark@waynecounty.com>; Monique Baker McCormick <mbmccormick@waynecounty.com>; David Knezek <davidknezek@waynecounty.com>; Terry Marecki <tmarecki@waynecounty.com>; Melissa Daub <Mdaub@waynecounty.com>; Abdul Haidous <ahaidous@waynecounty.com>; District12 Commissioner <District12@waynecounty.com>; Sam Baydoun <Sbaydoun@waynecounty.com>; Raymond Basham <Rbasham@waynecounty.com>; Joseph Palamara <jpalamar@waynecounty.com>

Cc: Pamela Lane <plane@waynecounty.com>; Ombudsman <Ombudsman@waynecounty.com>; abrahamaiyash@house.mi.gov; SChang@senate.michigan.gov

Subject: URGENT: Submission regarding the WC Art Institute Authority for the May 5 meeting of the Commission

Greetings Chair Bell and Wayne County Commissioners,

I hope this finds you all well.

I understand that at the May 5, 2022 meeting of the full Wayne County Commission, you will be asked to approve the reappointment of five members to the Wayne County Art Institute Authority (WCAIA). I am writing to urge you to instead return this issue to the Government Operations Committee for further discussion (with public comment.)

As some background, in 2020 I submitted a FOIA request to the Wayne County Art Institute Authority. Only then, did the WCAIA begin adhering to the Michigan Open Meetings Act for the first time since its inception.

When the workings of the WCAIA were revealed to the public it became clear that the board members had paid little attention to the documents that govern their operation. To this date, they remain non-compliant with respect to their Articles of Incorporation, and Michigan Public Act 296 of 2010. For example, the WCAIA has never performed an annual audit (as required by Michigan Public Act 296 of 2010) and hence has been derelict in its duty to steward over \$70M of public funds from the people of Wayne County.

Furthermore, the WCAIA has not adhered to the term limits set forth in its Articles of Incorporation. Of the five members that are requesting reappointment, at least three have been on the board since its inception in 2013. I know that at least four highly qualified external candidates have applied to be on the board, following the protocol delineated by the clerk, but have not been contacted. I am concerned that the decision to reappoint the current five members is not in the best interest of the citizens of Wayne County. Furthermore, the process has not allowed public discussion, has not treated all applicants equally, and if it proceeds as planned, it would likely be subject to legal challenge.

Later this year, the WCAIA will be responsible for negotiating the new Service Agreement that will define the services that the citizens of Wayne County receive from the DIA in return for the ~\$100M of millage money they will contribute over the next decade. The renegotiation of the Service Agreement is a once-in-a-decade opportunity and will doubtless receive a lot of public visibility. It is imperative that the Commission follow a transparent process and appoint the best possible members to the WCAIA.

For these reasons, I urge you to return this issue to the Government Operations Committee for public discussion.

If you have any questions, please don't hesitate to contact me on [REDACTED]

Best Wishes

Steve Panton

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