

Introduction

I am offering the following statement to the Elk Rapids District Library board for the benefit of the board and for the edification of the public. Attached below is a fact sheet synopsis of Library board minutes, a copy of a FOIA request I have submitted to the library, and a copy of my September 28 email to Karen Simpson. It is not my intention to initiate or participate in a debate. This statement has been shared in full with the Record Eagle. It has also been attached to a complaint submitted to the State Attorney General's office.

I have limited the scope of this statement to only those things which can be found in the following documents:

- Approved Elk Rapids District Library board minutes; November 2018 – Present
- Digital recordings of Elk Rapids District Library board meetings
- Zrimec & Wick 'Capital Campaign Feasibility Study Report'; Friends internal records
- Zrimec & Wick 'Feasibility Survey Consulting Agreement' and payment record; Friends internal records
- ERDL Capital Campaign Committee membership list(s); acquired from the Elk Rapids District Library and Julia Pollister Amos
- Michigan Charitable Organizations and Solicitations Act, MCL 400.271 et seq.
- Friends of the Library internal communications with Library of Michigan Library Law Consultant Clare Membiela

Creation, Charge, and Reach

The first mention of the Capital Campaign Committee (CCC) is in November of 2018 when Karen Simpson agreed to be the chair and Sarah Ward was placed on the committee by the Elk Rapids District Library (ERDL) board. At the December 2018 board meeting the library board officially established the CCC as a board committee and appointed Karen Simpson and Sarah Ward as co-chairs. At the December 2018 board meeting the ERDL board explicitly "charged [the CCC] with raising the funds for the expansion and renovation of the Library. They will report to the board at least monthly."

The first two months of the committee's activities appear uneventful. The CCC submitted reports to the ERDL board in writing and notified the board and the public of future meetings. However, by March of 2019, Ward was no longer reporting for the CCC and no written reports have been submitted since that time. Likewise, no committee meetings have ever been announced to the public since February of 2019. Sarah Ward appears to have left the CCC and the board by June of 2019. No replacement co-chair was ever appointed to the committee.

Despite a clear charge being issued to the CCC in December of 2018, the CCC appears to have consistently deviated from its charge. Over the course of the past two years the CCC has presented "revised plans for the [library] entryway", requested greater access to the Library's social media accounts, and demanded access to and oversight over library job descriptions.

On multiple occasions since its formations the CCC has introduced unnecessary ambiguity about their role to library board proceedings. On two occasions the library board passed agreements and charges

affirming the original and obvious role of the committee, to raise funds for the expansion and renovation of the library.

Recently another instance of role ambiguity and creep occurred when the CCC scheduled and advertised an event for the Friends of the Library despite have been asked on three occasions to wait until after our September 28th board meeting. I am aware of the ambiguity and contention surrounding the CCC's interpretation of it's charge in the past. I regard it as necessary to identify clear organizational boundaries for each organization to maintain a stable working relationship. As stated in my September 28 email, The Friends of the Elk Rapids Library cannot allow unlicensed solicitors to collect funds on our behalf.

Reporting and Donor Communications

Another point of concern has to do with the complete absence of documented reporting from the library's Capital Campaign Committee. January and February of 2019 are the only months which indicate the presence of a written report to the library board, although these reports are no longer publicly available. The public, library staff, ERDL board and I have all expressed concern regarding this lack of transparency. In July of this year the ERDL board voted unanimously to require the CCC to announce meeting times and post meeting minutes for public scrutiny. The CCC has failed to meet either of these requirements despite hosting and planning multiple activities since. Likewise, demands for a list of capital committee members during the summer of this year has resulted in two different lists of members with no account for the discrepancy. There is no clear process for any member of the public to join the Capital Campaign Committee or attend one of it's meetings.

Additionally, there are numerous instances of communications with donors throughout the past two years, the details of which have never been shared with the board or the public. Despite the public being informed on multiple occasions by the CCC of what the donors want, these communications have never been documented save for two occasions.

When accepting donations for a capital campaign it is best practice to prepare donor communications in a uniform format ahead of time. Each donor should receive the same documentation and literature which defines precisely what legal entity they have donated to, where their money will go, what legal entity owns those funds in the interim, when and how it will be spent, an explicit refund policy, and what will happen to their donation should the project change or fail. As an observer, I cannot understand why you would not want your donors to have this information. Verbal communication is a poor substitute for this necessary degree of documentation. In fact, the only two documented communications from donors that the ERDL board has received express serious concerns about these very issues. Given that the CCC has already received requests for refunds, it is essential that the library board reevaluate the documentation being provided to donors and impose strict requirements on the conduct of the CCC. The Friends of the Library should be wary of accepting any donations solicited by the CCC without having full documentation of what commitments were made to the donor, especially since no member of the Capital Campaign Committee is licensed as a solicitor with the state.

Feasibility and Lease

The resolution of the above concerns should certainly be a priority to the ERDL board, however they may not represent an immediate legal threat unless a donor wishes to come forward with a complaint. However, I believe that there are other vital areas in which the ERDL board and CCC are already at fault. Formal inquiry and remediation are vital to moving forward with the library expansion project. I have grave concerns regarding what has been disclosed or withheld from CCC donors.

Records show that Zrimec & Wick were contracted to conduct a feasibility study for the Library on November 16, 2018, just one week after the contract was approved at the November 8 board meeting. The terms of the contract indicate that half of the \$7,250 consulting fee was to be paid up front, while the remainder was to be paid upon completion of the study. While the June 2019 board minutes euphemistically state that the feasibility study was “abbreviated considerably” financial records indicate that no concluding payment was ever made. The only payment on file is for the initial \$3,625. The feasibility study was never concluded. The only document justifying the feasibility of this 5 million dollar public project is a study consisting of a cover page, a two page summary of interviews with 11 people, and two one-page exhibits.

The CCC has successfully raised approximately \$500,000 in the two years of fundraising. This is in addition to the existing million dollars that was donated before any serious fundraising was underway. The stark reality of the CCC only raising \$250,000 per year of operation compounds dramatically with the continued absence of a long term lease. If the fundraising efforts of the CCC were to keep pace with their pre-pandemic rate of growth, the campaign would reach it’s goal of 5 million dollars in 2034, with only four years remaining on the current lease. I commend Dick Hults for seeing the problem that this poses for the library and for his continued efforts to initiate dialogue with the lessor, the Village of Elk Rapids, for almost a year. I find it unusual that the village has not taken seriously the concerns of it’s lessee.

It is completely unethical to have not conducted a thorough and rigorous feasibility study prior to accepting any funds. It is likewise completely unconscionable to continue raising funds for a building that the ERDL does not own and for which the lease will expire precisely when or even before the fundraising is complete. Failure to disclose the status of the lease, the nature of the feasibility study, and an accurate time frame for completion amounts to thorough misrepresentation to the donors. You are essentially defrauding your donors.

Financial Ambiguity

The most serious concern has to do with the handling and reporting of expansion fund donations. It is important to note that the law for charitable donations defines a contribution as “a promise, grant, or payment of money or property of any kind or value, including a promise to pay”. Even the various pledges reported in early 2019 should require rigorous documentation.

Given the verbal reports offered at the ERDL board meetings of November 2019 and December 2019, the expansion fund should be near \$1.9 to \$2 million dollars. The November 2019 report stated a balance of \$1.8 million and suggested the anticipation of a large donation still pending from the Gala event (which is never mentioned again). Inexplicably, by January 2020 the large donation from the Gala

and \$76,000 from year end letters did not bring this total to over \$2 million as one would expect. The fund balance was reported at only \$1.77 million.

Worse still, at the present date the expansion fund has only ever contained a little over \$1.5 million. The balance was reported at \$1.5 million as early as August of 2019 and has never exceeded this balance since. These figures constitute a discrepancy of up to \$400,000, an error which necessarily is in either the reporting or in the handling of those funds. At best this represents egregiously negligent reporting (either on the front end or on the back). At worse the discrepancy indicates the gross mishandling of funds.

Whatever the nature of this error, it is clear that the Friends of the Library should not expose our own funds and donations to this type of mismanagement.

Closing

I believe that director Miller has made consistent efforts to resist or correct these issues where they relate to her role as Library Director. Her resistance to the role creep, lack of accountability, and the opacity of financial reporting is the root cause for director Miller becoming the target of such censure these past two years. I have been advocating for increased documentation and transparency for over a year. I have become aware of efforts behind the scenes by members of this board, members of the capital campaign committee, and municipal officials to interfere with my September 2019 and July 2020 applications to the Elk Rapids District Library board, as well as attempts by these same individuals to prevent my nomination to the Friends of the Library chair position. I find these efforts highly suspect.

Given the degree and severity of the problems with the capital campaign committee, I feel strongly that the Friends of the Library should focus exclusively on the activities identified in our articles of incorporation. In fact, after consulting with a lawyer from MLA in October of last year, the Friends were advised NOT to handle large sums of money for the library expansion if handling of those funds is not identified as a typical activity of our organization within our articles of incorporation.

The issues that I have highlighted in this statement have been visible to the public for two years and should be of top concern to this board. A review of past board minutes demonstrates clear and dire dysfunction on this board surrounding the capital campaign committee. I will not accept the board's universal response to public derision which has historically been 'thank you for your comment'. Likewise, I will not expose myself to further contrived calumny, backdoor shenanigans by members of this board and committee, or interference from municipal officials. Thus I have filed a complaint with the State Attorney General's office for review and submitted a series of FOIA request to further research this problem.

Respectfully,

Gabrielle Hill

November 8 2018	<ul style="list-style-type: none"> • Board approves feasibility study, architect plans, and places Ward and Simpson on CCC
December 13 2018	<ul style="list-style-type: none"> • Friends give 400,000 • Johnson creates CCC and places Ward and Simpson as co-chairs. • The committee is charged with raising funds for the expansion and renovation of the library.
January 10 2019	<ul style="list-style-type: none"> • Cathy Walle and Alice Rubert meet with Karen Simpson to discuss friends role in the CCC • CCC posts next meeting date and CCC provides a written report.
February 14 2019	<ul style="list-style-type: none"> • CCC posts next meeting date and provides a written report.
March 14 2019	<ul style="list-style-type: none"> • Karen Simpson submits a list of donors to be recognized when we see them. • Karen collects 70,000 of pledges
April 11 2019	<ul style="list-style-type: none"> • Karen Simpson announces two intimate gatherings this summer with the goal of 100,000 to 200,000 per gathering
May 9 2019	<ul style="list-style-type: none"> • Karen reports a pledge of 125,000 • CCC announces 'deep pockets' party at a private home with the goal of raising 200,000 to 300,000 and another party in August. • Simpson meets with Miller and Johnson regarding her revised plans for the entryway
June 13 2019	<ul style="list-style-type: none"> • Zrimec & Wick summarize the feasibility report to the board. The study was abbreviated 'considerably' due to timing and the two year referendum. • Ward is no longer co-chair on the CCC; no longer on board
July 25 2019	<ul style="list-style-type: none"> • CCC reports balance of 1.45
August 8 2019	<ul style="list-style-type: none"> • CCC reports balance of 1.5 • CCC announces a home party at Rick Bellingham's • CCC announces two additional home parties
August 14 2019 Special	<ul style="list-style-type: none"> • CCC wants greater access to library's social media accounts • CCC requests 'full support of the board' and urges to avoid 'us and them' thinking • Committee formed to draft an agreement between the Board and the CCC. This seems unusual as the CCC already received a charge in December 2018
August 23 2019 Special	<ul style="list-style-type: none"> • CCC is acknowledged as a board committee due to the Chair being appointed by ERDL board president and co-chair originally being a board member • Miller is attending CCC • Townships attend for an update and request budgets from the CCC

September 12 2019	<ul style="list-style-type: none"> • Miller requests the CCC's policy for reimbursement and asks if the CCC has a budget • No correspondences listed, however Karen Simpson reports on a letter regarding library programming. CCC wants to review library 'Program Director' job description and hours • CCC meeting with superintendent and principals of Elk Rapids Schools • CCC beginning to address family trusts • First reading of social media policy. Questions asked about the source of the policy. • Contrary to previous commitments, the village will not be paying for a \$2600 environmental study on the island • Hults suggests that the friends and/or CCC require bonding and insurance • Hults suggests that ERDL board meetings be held at the township to record the meetings
October 10 2019	<ul style="list-style-type: none"> • Friends pay 12,000 toward their 50,000 pledge to the expansion fund • CCC report focuses on upcoming events • CCC suggests that donors wish to know about the 'Program Director' position at the library. Karen says she needs to know more to share with donors. No donor communications are identified as correspondences. • Simpson submits an addendum to the social media policy. It will be submitted to a lawyer for review. • Approval of the friends agreement • Approval of meeting location change • Obvious contention in public comments
November 14 2019	<ul style="list-style-type: none"> • CCC reports balance of 1.8 • CCC is waiting for a 'larger donation' from the gala • Ad hoc committee appointed to develop a charge to the CCC and identify responsibilities and limitations • Grant and foundation requests are identified as 'going full force' CCC requests funding to bring Zrimec and Wick back as consultants.
December 12 2019	<ul style="list-style-type: none"> • CCC Year end letter brought 23,000 • CCC announces pledges of 50,000 to 100,000 • CCC Charge committee has not met yet • Hults consulting lawyer to draft lease
January 9 2020	<ul style="list-style-type: none"> • Year end letters brought in 76,000 • CCC reports balance of 1.77 • CCC Charge is presented in draft
February 2020	<ul style="list-style-type: none"> • Hults submits draft lease agreement • Board accepts CCC Charge • Karen Simpson suggests that the friends are still involved in the CCC even if they are not meeting.

	<ul style="list-style-type: none"> • Karen announces that January was a regroup and planning month for the CCC. No meeting was announced
March 12 2020	<ul style="list-style-type: none"> • Hults reports that draft lease has been delivered to the village. ERDL board is expecting a response by April • Karen Simpson announces the formation of a Teen Advocacy Group. Karen States that they will be involved with the design of the teen room in the expansion
June 11 2020	<ul style="list-style-type: none"> • Friends postpone membership campaign • Board accepts the resignation of Karen Simpson, Gera Witte, Jim Witte, and Paula Moyer from the CCC
June 25 2020 Special	<ul style="list-style-type: none"> • Board moves to continue with the campaign and seek a new CCC chair • Pollister-Amos criticizes communication and organization of the CCC. Requests member list.
July 9 2020	<ul style="list-style-type: none"> • Paul Moyer asks for a refund and requests specific plans regarding how the project will move forward • ERDL board passes motion requiring the capital campaign committee to post meeting times and minutes in compliance with OMA • Multiple public comments regarding dysfunction on the board • Diane Richter lists the specific board turnover since the expansion project was initiated • Hults requests the donor list from the CCC. Is told that he cannot have it. This item was not included in the minutes but is reflected in the recording. • Weitschat resigns from the board.
August 5 2020	<ul style="list-style-type: none"> • All opinions from the lawyer should be in writing and provided to all board members. The written opinions should be attached to invoices. • Discussion of 'cost saving measures' for the expansion • Johnson prohibits a member of the public from speaking
August 13 2020	<ul style="list-style-type: none"> • Simpson and Johnson stated that they do not want the two pages of public comment included in the July 9 board minutes. • A letter was received by Tom McMullen, a large donor. Hults wishes to discuss this letter, Geddes suggests sending a letter to Tom McMullen. Simpson says that she has already spoken to him about his concerns. No documentation. • Friends of the Library require an audit after raising 500,000. The library's Kammermann & Bascom audit included the CCC, but not the friends. The CCC will pay for the friends audit. • Hults reports still no cooperation from the village regarding the lease and operating agreement.

Nannette Miller
FOIA Coordinator
Elk Rapids District Library
300 Isle of Pines
Elk Rapids, MI
49629

RE: Freedom of Information Act Request

Dear Nannette,

This is a request under the Freedom of Information Act

I request that the following documents be provided to me:

- All financial and donor records relating to the \$70,000 in pledges referenced in the March 14 2019 board minutes.
- All financial records relating to the two intimate summer gatherings referenced in the April 2019 board minutes
- All financial and donor records relating to the \$125,000 pledge referenced in the May 9 2019 board minutes.
- All financial records relating to the private house party referenced in the May 9 2019 board minutes.
- All financial records relating to the home party at Rick Bellingham's referenced in the August 8 2019 board minutes
- All financial records regarding the 'Large gala donation' referenced in the November 14 2019 board minutes
- All financial records regarding the '\$50,000 to \$100,000' pledges referenced in the December 12 2019 board minutes
- Copies of the grant applications referenced in the November 14 2019 board minutes.
- All financial records regarding the 2019 year end letters referenced in the January 9 2020 board minutes
- A monthly statement of the expansion fund for the months of July 2019, August 2019, November 2019, December 2019, and January 2020
- Expansion fund balance for the dates of July 25 2019, August 8 2019, November 14 2019, December 12 2019, and January 9 2020
- All digital communication to and from Elk Rapids Library Board members and members of the Elk Rapids District Library Capital Campaign Committee regarding the September 28th Friends of the Library Chair appointment.
- All digital communication to and from Elk Rapids Library Board members and members of the Elk Rapids District Library Capital Campaign Committee regarding the October 3rd Friends Membership Drive.

I am not seeking this information for commercial use. I would prefer to pick up the above documents at the Elk Rapids District Library rather than pay for postage. Thank you for your consideration of my request.

Gabrielle Hill
231-642-4977
119 Center St.
Elk Rapids, MI
49629

Karen,

I want to thank you for all of your efforts toward making this event happen. However, as you, Alice, and I discussed in person at the library on Friday September 18th, the Friends are not comfortable with any further solicitations done by you on our behalf.

We have not made a commitment, passed through a motion of our board, to this membership event that you have organized, nor have you corresponded with me to set this up. As I said about the capital campaign, it is illegal for you to solicit funds or services on our behalf without our written approval. For example, the letter that you have been sending donors appears to place the library in violation of Michigan's Charitable Organizations and Solicitations Act 400.293, Sec 23:1(a). The Friends will be doing an audit of all funds received for the previous fiscal year (you agreed that the Capital Campaign would pay for this audit) so that as chair I can establish a budget for the remainder of my term and the next fiscal year.

It is incorrect that the Friends of the Library is simply a flow-through for Capital Campaign donations. You had spoken to Claire Membiela regarding setting up your own endowment fund and charity organization for the library. It is at the library board's discretion to resolve the legalities of this action. We stand firm that until you provide documentation of solicitations for past contributions (as defined in Michigan's Charitable Organizations and Solicitations Act 400.272 Sec 2(d)), we cannot move forward with our support of the Capital Campaign. Any patrons or donors who wish to donate to the friends can contact us directly.

Since it has already been advertised, if the friends decide to move forward with the membership drive I will tabling on our behalf. If you have any questions you are welcome to bring them up at our Board meeting this afternoon.

Regards,

Gabrielle Hill