

From: Walsh, J Doyle
Sent: Tuesday, May 02, 2017 12:41 PM
To: BoardRecords,
Subject: FW: Zuckert, Scoutt, Rasenberger Letter received
Attachments: SKM_C454e17050212340.pdf

This item will come back for a vote eventually. Clearwater Marine Aquarium. Thanks,

Jordan Doyle Walsh
Office of Commissioner Janet C. Long
Chair, Pinellas Board of County Commissioners
Phone: 727-464-3365

From: Walsh, J Doyle
Sent: Tuesday, May 02, 2017 12:36 PM
To: Klug, Della ; McCaslin, Canaan
Cc: Berger, William M
Subject: Zuckert, Scoutt, Rasenberger Letter received

Re the CMA/\$26m request

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May 1, 2017

BY HAND

Ms. Janet Long, Chair
Mr. Dave Eggers
Ms. Pat Gerard
Mr. Charlie Justice
Mr. John Morroni
Ms. Karen Seel
Mr. Kenneth Welch
Pinellas County Commission
315 Court St, # 501
Clearwater, FL 33756

**RE: CLEARWATER MARINE AQUARIUM REQUEST FOR
\$26 MILLION FROM THE TOURIST DEVELOPMENT TRUST FUND**

Dear Commissioners:

I write to follow up on my correspondence of last week by which I transmitted to the Board information relevant to your consideration of the pending request of the Clearwater Marine Aquarium (CMA) for \$26 million in taxpayer funds.

Since my letter to you, CMA CEO David Yates and CMA Board Chair John Draheim published a column in the *Times* ostensibly to rebut the documented facts and reports I provided to the County Commission. Why is the CMA responding in a column in the *Times* rather than providing facts and documents in support of its position to the Commission? The answer is simple: there are no facts or documents to support the CMA's conclusions so its leadership instead turns to a column replete with evasive generalities in an attempt to obfuscate the fact that experts have completely discredited the CMA's claims.

Even a cursory review of the data I provided amply demonstrates the need for further inquiry into CMA's activities and the level of compensation paid to its executives. Instead, the Board appears to have dismissed information critical to an

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informed decision as received with "not good timing", as Commissioner Welch said at last week's Board meeting, or "too little too late," as Commissioner Long was quoted in the *Tampa Bay Times*. Commissioner Welch went on to point out, however, "We need that information way before we make a decision." Because no "decision" has been made to date, the information provided cannot be considered "untimely."

Moreover, the CMA's rejection of \$15 million in private funding, which served to magnify the potential impropriety of the requested grant, came only late the week before, just five days before my letter to you. In any event, it was and remains incumbent on the Board to do its own investigation before deciding on such a massive giveaway of public funds, as the Tourist Development Council (TDC) itself should have done before recommending in favor of the grant. In that regard, the TDC has not and could not "approve" CMA's request as the Board suggested. **Per the relevant statute, while the TDC may "make recommendations to the board of county commissioners for the effective operation of the special projects or uses of the tourist development tax revenue," it has no authority or power to "approve" uses of the tax revenue.** CMA's financial information is a matter of public record, as is the enormous compensation paid to its CEO, over \$500,000 in one year. It is the duty of the Board to every citizen of Pinellas County to weigh this information before it embarks on a handout of this magnitude of taxpayer funds. The Church should be thanked rather than criticized for doing the work the Board and TDC should have done in the first place.

At the recent County Board meeting, Commissioner Morroni stated his support for the CMA and commended its openness with the Board: "i support it too and I also want to say as far as the Clearwater Marine Aquarium goes is that I have been very proud of the way that they have always communicated with us." Does that openness and communication include advising the Board that the CMA compensated its CEO \$529,000 in 2015, more than any other CEO of a nonprofit aquarium, and twice as much as other nonprofits of comparable size in the Tampa Bay area? In their column, Messrs. Yates and Draheim claim CMA's executive compensation is "benchmarked" and equivalent to that paid by similar organizations but offer no details. We reviewed the IRS Form 990s of comparable Tampa Bay area organizations and found Yates's and Draheim's claim to be false and misleading: in the year when CMA's revenue was \$21 million, and Mr. Yates was compensated \$529,000, Lowry Park Zoo had revenue of \$21

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million and its CEO was compensated \$242,000; Ruth Eckerd Hall had revenue of \$23 million and its CEO was paid \$239,000; Community Foundation of Tampa Bay had revenue of \$25 million and its CEO was paid \$257,000; United Way Suncoast had revenue of \$24 million and its CEO was paid \$233,000; and the Florida Aquarium in Tampa had revenue of \$19 million and its CEO was paid \$266,000. Where is the benchmarking?

Indeed, CMA earlier told the *Times* that Yates's compensation for CMA's 2014 tax year (its fiscal year ending September 30, 2015) was "one-time makeup retirement pay from benefits withheld during leaner years." CMA's Form 990 for that year, however, shows only \$18,400 in retirement benefits, comparable to the prior and subsequent years. Moreover, in the portion of the tax return addressing executive compensation, CMA states: "The CEO, CFO and COO compensation reflect total revenue achieved and net ordinary income of the organization as well as other strategic goals designed by the executive committee." The return says absolutely nothing whatsoever about one-time makeup retirement pay. The financial analysis of specialists in non-profit law and forensic accounting provided to the Commission queried the level of CMA's executive compensation and made clear that a good portion of the grant requested may therefore find its way into the pockets of CMA's executives rather than into the rescue and rehabilitation of marine animals.

And has the CMA disclosed to the Board why and to whom it pays hundreds of thousands of dollars in royalties each year? Are those payments with respect to the intellectual property rights of Winter the dolphin? If so, why is the CMA paying royalties to a third party on account of its own dolphin? If the rights were owned by Mr. Yates, CMA's CEO, the royalty payments would, of course, constitute additional compensation to him.

CMA has told the *Times* that its "tax returns were audited and issued the highest level of assurance." This statement is meaningless. It pretends to convey that the IRS audited CMA's returns and accepted its treatment of gift shop revenues. If that in fact were the true state of affairs, a knowledgeable person would have said so directly: the IRS audited these returns and accepted the return position. The IRS, however, would never provide a "high level of assurance."

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Mr. Yates told a *Times* reporter that CMA has not received any grants from the City of Clearwater beyond a \$750,000 gift in 2008. In their *Times* column, Yates and Draheim alter that story and state CMA has not received any grants from the City since 2010. The actual facts were detailed in my earlier letter to the Board: CMA received a \$60,000 grant in 2011 from the Downtown Development Board; also in 2011 the City paid \$688,000 to evict Pickles Deli and then made the City-owned Harborview available to CMA at \$1 per year; the City then paid \$172,000 to renovate the space for CMA; the free rent to CMA has been valued to date at approximately \$900,000. Moreover, the land on which the aquarium sits was provided free of charge by the City. Then there is the \$5 million grant CMA requested from the City in 2016, \$3 million of which the City Council agreed to provide.

Mr. Yates told the *Times*, “We never claimed we were the sole reason” 72.7% of CMA’s patrons come to Pinellas County – only that CMA was the “main or primary motivating factor.” In their column, Yates and Draheim make a similar misleading statement. **The impact studies CMA provided to the Board in support of its grant request, however, unequivocally claim that CMA is responsible for the entire economic impact of 72.7% of all overnight visitors to Pinellas County who happen to visit the aquarium.**

The report by Dr. Philip Porter, Professor of Economics at University of South Florida, found this assertion to be completely absurd. The gross nature of the fabrication is demonstrated in one of the predictions made in the 2012 CMA economic impact study. That study predicted, “Approximately eight hundred thousand visitors (to CMA) in 2013, growing to 2.3 million in 2016. These visitors will provide a total economic impact to the local economy of approximately \$580 million, which increases to \$1.7 billion in 2016.” If that statement were accurate, CMA would have had a greater economic impact last year than the entirety of Clearwater Beach. We all know that did not happen.

To repeat what Dr. Porter has stated in his report: **the assertion that 72.7% of CMA patrons traveled to the County primarily because of CMA was fabricated by the authors of CMA’s study using a faulty linear progression “equation,” with zero input from actual aquarium visitors.** Dr. Porter affirmed that the authors did a calculation

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that is “totally erroneous.” (See Porter 2017 report, Pg. 7) Dr. Porter’s verifying blind survey, conducted in accordance with accepted social science surveying principles, revealed exactly the opposite: 87.1% of non-resident CMA visitors who stay overnight (or longer) in the County said they would still have come to the area if CMA were not located in Clearwater. (See Porter 2017 report, Pg. 17) Dr. Porter’s analysis thoroughly discredits the 2012 study. Nonetheless, CMA provided that study, along with a 2015 study relying on the same faulty equation as the 2012 study, to the Tourist Development Council and to the Commission to support its request for \$26 million in taxpayer funds.

Commissioner Long is quoted in a *Times* article (Romano: “Church hasn’t been a good neighbor”, April 30, 2017) accusing the Church of acting in bad faith and claiming Church officials told her they would not purchase additional land in downtown Clearwater. Ms. Long is referring to a conversation in November 2014 where the Church stated that aside from the Oak Cove lot, it had all the property needed for its downtown campus. That statement was accurate when made and remains accurate today. The Church’s recent downtown property purchases were not for the Church campus, but for the benefit of downtown redevelopment, to attract retail outlets, including a potential theater and entertainment center. The Church made these purchases as part of its contribution in partnering with the City as recommended by the Urban Land Institute study, and in response to the City’s request that the Church assist with redevelopment of the downtown. For Ms. Long to misstate the facts and then use those misstatements as a basis to disparage the Church publicly – apparently because the Church brought to her attention information the Commission should have uncovered on its own – is frankly scandalous. Ms. Long and the entire Commission should be ashamed.

Moreover, Ms. Long is ascribing motives that have nothing to do with the facts or the complaint brought by the Church. **The Church provided the information and documentation regarding CMA to the Commission for one reason alone – the Church has an interest in how taxpayer funds are spent. When the Church’s offer of \$15 million was refused and it learned that instead CMA was requesting \$26 million in taxpayer dollars, it became a matter about which all taxpayers should be concerned.**

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Ms. Long's statements are all the more offensive in that she completely ignores the Church's ongoing contributions to the Clearwater Community. All of the meetings between Church representatives and City officials have been cordial and transparent. Our relations with downtown property owners and shop owners are exceedingly friendly and cooperative. We work with City staff on a regular basis, and do volunteer work with the Clearwater Police Department cleaning up neighborhoods. We sponsor regular family-friendly block parties on Cleveland Street featuring entertainment, rides for the children, and free food. Last year we partnered with the City in covering 50% of the cost of the new Veterans Memorial at Crest Lake Park. The prior year we contributed the cost and manpower to bring the Martin Luther King Community Center back to life. We sponsor massive human rights and drug education programs in the community. Just last Saturday night the Fort Harrison auditorium hosted drug abuse professionals from around the state including representatives of seven law enforcement agencies from around Florida. The Church sponsors a Tampa Bay-wide coalition of 150 charities, and provides the Fort Harrison as a venue free of charge to an average of two charitable organizations a week.

Mr. Yates and Ms. Long appear to want to characterize the current discussions as a fight between the Church and the Aquarium – it is not; it is not a fight with anyone. Indeed, the question of the purchase of the Oak Cove lot from the CMA became an issue because of the efforts the Church undertook to partner with the City in the redevelopment and beautification of Downtown Clearwater as recommended by the ULI study. Those recommendations made it clear that the Church and the City must partner and the Church kept the City apprised of its actions to further the partnership at every turn. It was the City that directed the CMA not to sell the lot to the Church and not to accept the offered \$15 million, promising the incentive of additional tax dollars for CMA from the City and County. CMA claims this is because of their partnership with the City – a relationship CMA itself termed “incestuous.” **However, the ULI study did not recommend a partnership between the CMA and the City; rather, it insisted on a partnership between the Church and the City.**

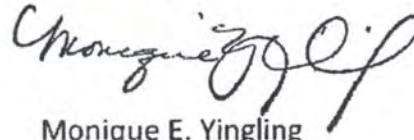
It is not merely unacceptable but irresponsible for the Commission to dismiss facts that seriously call into question whether the CMA should be receiving millions of dollars in handouts from the City, State and County by making unfounded and

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defamatory charges against the Church for reporting those facts. Every taxpaying citizen has the duty and responsibility to report the potential misuse of taxpayer funds, as the Church here has done. **In that regard, it should be noted that the Church is the largest payer of property and tourist taxes in downtown Clearwater, while the CMA pays no taxes.** Rather than challenging the motives of a taxpayer bringing vital information to its attention, the Commission should be examining that information.

I would be pleased to answer any questions you may have or to provide any additional information.

Sincerely,



Monique E. Yingling

cc: Speaker of the House Richard Corcoran
Senate President Joe Negron
Attorney General Pam Bondi
Florida Auditor General Sherrill Norman
Pinellas County Administrator Mark Woodard
Clearwater City Council
Clearwater City Manager
Clearwater City Attorney