

TA01 - FY2021

Sayers, Margery

From: Sandi <sandimey@gmail.com>
Sent: Sunday, November 1, 2020 1:50 PM
To: CouncilMail
Subject: vote of support for TA01-FY2021

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Good day to you,

I'm writing to ask for a full hearted, unanimous approval of TA01-FY2021, creating affordable and vibrant housing options for Columbia. Our area has experienced rapid growth and regardless of one's stance on such growth, we can all say it's been for those who can afford upper to high end housing. The opportunities Columbia offers to enjoy a multicultural community is precious and should be available to all people, especially those typically shut out due to social and financial status. This project gives a wonderful opportunity to balance that biased structure.

Thank you,
Sandra Meyerhoff
Ellicott City, MD

Sayers, Margery

From: Ray Donaldson <rtdonaldson@gmail.com>
Sent: Friday, October 30, 2020 8:10 PM
To: Walsh, Elizabeth
Cc: Marshall Cynthia; CouncilMail; Toby Orenstein- Toby's Dinner Theatre; Leslie Linda; Ball, Calvin B
Subject: Fwd: TAO1-FY2021 Legislative Public Hearing, and more!
Attachments: 07.28.20_NCC questions Post Work Session-2020-07-23_Emailed by Deb Jung.docx; 09.13.20_Email from Deb Jung_NCC Letter to PATH.docx

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Hi Liz,

I was warned by a friend what I would find when I received the two documents Cristiana Little forwarded to me. So, I can never know how I would have reacted if I had not "been primed." Having admitted that one of the first things that comes into me mind is the song about "The Philadelphia Lawyer." My own thankfully "once in a lifetime experience" was actually with a Westchester, New York lawyer. The reason lawyers are in competition with used car leaders for the MOST DISLIKED people in the country is because lawyers are in the "almost" unique position of stealing huge amounts from people and doing it all "legally."

All these questions are intended to APPEAR to be reasonable, but to me they "appear" intended to stonewall and obfuscate with the intent of just stopping the process that is SUPPOSEDLY being investigated. This is where we are now not just in Howard County, but in the entire country with spillover to the entire planet. The Cosmos continues with the laws of physics; it cares not what happens on the planet earth. When our sun explodes our solar system will return to the "star dust" from which we all came.

In the immediate years to come the vision of James Rouse and all who came here in response to that vision is being drained out of the county in the name of big business and many others to just do what they want to do without any thought for others. At times like this another way I cope (in addition to taking the Cosmos viewpoint) is to resort to the teachings and life of Jesus: "What is the loving thing to do in each situation?" I and others will try to follow that advice despite what is going on all around us.

My suspicion is that while most of these (this large number of) "questions" and "documents requested" in: seem reasonable, they are **not** intended to resolve the issues and solve the problems with the intent of continuing with the project. I suspect that (considering the time frame required to get the \$64 million dollars pledged toward the low-cost housing) they are efforts that actually will **end** the project. After arriving at that conclusion I went on to read the document:

about the New Cultural Center. I have copied parts of it below that stood out to me:

- Most of my concerns are with the arts and culture portion of the New Cultural Center (NCC). As it is currently proposed, the County has become the sole funder of an arts facility built to the specifications of a private non-profit as the one of the major tenants. When this project was first envisioned, private sources were supposed to provide a significant portion of funding for the NCC. The private-sector funding didn't materialize and the County has now become the funder of last resort, taking on the entire cost and risks associated with the construction and operation of the facility.
- I also seek to ensure that future County Executives and Councils are not placed in a financial straight-jacket by creating a situation that will not enable us to meet the core needs of our residents.

- The outstanding documents deal mainly with the financial viability of Toby's Dinner Theater, agreements between Toby's and Howard County as well as agreements related to the operation and construction of the NCC.
- I feel strongly that it is important to have a better understanding of how NCC's largest tenant (Toby's/CCTA) will play in the development, and support of the facility.
- The two marketing analyses completed for this project ... pointed out a need to build flexible space rather than cater to a particular group. [1]
- [1] The 2015 Webb Report stated: "Arts organizations will come and go given their fragile balance sheets and the competitive pressures they face. Facilities should be able to accommodate multiple users at once, or successive users in quick order, so as not to be dragged down by any one user facing a dark future."

I am not going to give a detailed explanation of why I highlighted these sentences. It is difficult to understand:

- how we got where we are in the world today,
- when it began,
- the greatest cause for it, and
- how to get through it to a better world.

We have become divided into multiple groups. The two major divisions are the result of the huge sources of information we have due in part to social media and multiple TV channels (with MSNBC and FOX probably the two extremes in "news" channels). Depending on where and how we get our information each of us lives in one of two **different** worlds. We don't talk to each other and therefore we don't understand each other.

Our country and the entire planet are under great stress for multiple reasons. I am saddened by where we are in Howard County.

The **vision** that began when the county leaders joined with James Rouse to create one of the greatest places to live in the country is becoming blurred.

People from many different countries, cultures, and economic conditions were drawn to Howard County. The county prospered, but some people have not learned to appreciate each other. Some wealthier people new to the county do not want to live near or have their children go to school with poorer immigrants.

Low cost housing and Toby's Dinner Theater were and still are an integral part of the Howard County **vision**.

It "**appears**" to me that some wealthier people in the county do not want to invest in the future of the less wealthy (including the young and old who have been inspired by Toby's). We are in a sad place today. I repeat what I said in a previous email:

"Without a **vision**, the people perish."

Peace,

Ray Donaldson

Begin forwarded message:

From: "Little, Cristiana" <clittle@howardcountymd.gov>
Subject: RE: [BULK] TAO1-FY2021 Legislative Public Hearing, and more!
Date: October 26, 2020 at 10:05:36 AM EDT
To: "rtdonaldson@gmail.com" <rtdonaldson@gmail.com>

Cc: "Walsh, Elizabeth" <ewalsh@howardcountymd.gov>

Hello Ray,

Attached to this email are the two letters from Council Chair Jung. Please let me know if you have any questions regarding them.

Thanks!

From: Walsh, Elizabeth <ewalsh@howardcountymd.gov>

Sent: Saturday, October 24, 2020 1:43 PM

To: Ray Donaldson <rtdonaldson@gmail.com>

Cc: Marshall Cynthia <path.iaf@gmail.com>; CouncilMail <CouncilMail@howardcountymd.gov>; Ball, Calvin <cball@howardcountymd.gov>; Toby Orenstein- Toby's Dinner Theatre <ap@tobysdinnertheatre.com>; Miller Paul <ecplm@aol.com>; Betty May <bettermay@mac.com>; Little, Cristiana <clittle@howardcountymd.gov>

Subject: Re: [BULK] TAO1-FY2021 Legislative Public Hearing, and more!

Good afternoon, Ray: Please pass along my warmest regards to your wife. I did read your whole note, and I've copied in D1's District Aide who will help me make sure you get that documentation I promised you pronto. Sorry for any delays on my part.

For me, as I said before, it's about ensuring we're exercising our best, informed judgment on whether and how to spend finite public funds, right now and for decades into the future. This project—theater and parking garage—arrived on the Council's lap during budget sessions earlier this year as the single largest, by far, bust in what had been projected in prior years. In fact, no "New Cultural Center" appeared at all in prior years' capital budgets because it was never intended until quite recently to be paid for by County taxpayers and general funds. I'm fairly certain everyone would agree at this point that what was represented to us during this year's hurried budget pitch lacked several material terms, like how the project realistically could be paid for.

I am not deferring to my colleagues Deb or David so much as respecting their methodical diligence. We are ensuring we're doing what's right here by our entire community, including those in need of affordable housing. The sum total affordable units proposed at the commingled project here is just 82, right? And I agree with you: my colleagues' questions remain valid and necessary. Likewise, my continued scrutiny here does not reflect on the persona that is Toby and this community she's built; that's not at issue.

In short, speaking for myself, we're not there yet. We might get there if we could restore some sizable funding gaps on both the capital and operational sides, but that hasn't been accomplished yet. At least not so far as I've seen. And I'm looking, Ray. I'm still looking.

Liz Walsh, Council Member
Howard County Council
Serving District 1

3430 Court House Drive
Ellicott City, MD 21043
410.313.2001

From: Ray Donaldson <rtdonaldson@gmail.com>

Sent: Saturday, October 24, 2020 1:06:36 AM

To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>

Cc: Marshall Cynthia <path.iaf@gmail.com>; CouncilMail <CouncilMail@howardcountymd.gov>; Ball, Calvin <cball@howardcountymd.gov>; Toby Orenstein- Toby's Dinner Theatre <ap@tobysdinnertheatre.com>; Miller Paul <ecplm@aol.com>; Betty May <bettymay@mac.com>
Subject: [BULK] TAO1-FY2021 Legislative Public Hearing, and more!

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Hi Liz (and other Council Members),

You have not yet replied to my Oct. 14th email to you. I asked you to send me the “two exhaustive lists to PATH from Council Chair Deb Jung.” In your email of Oct. 13th you said the County Council had been asked to approve:

“a \$70 million ... “deal to construct” ... “a private dinner theatre” ...
[that] “did not appear particularly viable.”

Who made this “cost/benefit” evaluation and arrived at this conclusion?

When People Acting Together in Howard (PATH) encouraged people to sign up for the **TAO1-FY2021** Legislative Public Hearing, PATH asked:

“Will the **arts access**, **community amenities**, and **housing** that the New Cultural Center will bring improve your quality of life in Howard County?”

You did not mention these three **benefits** in your conclusion about the **cost** of this project.

- Have you, Liz, or any other council member met Toby Orenstein and/or attended a show at Toby’s Dinner Theater?
- You did not mention the **housing** component of this project. You seem to be willing to walk away from \$64 million dollars pledged toward low-cost housing because “someone” has suggested that Toby Orenstein is not a good businessman; “a private dinner theatre” ... [then does] “not appear particularly viable.”
- Do you know that **low cost housing** and **arts access** were part of Jim Rouse’s vision for Columbia and the county from the beginning?
- Do you have any idea what **community amenities** come with the **arts** component of this project?

Toby Orenstein is not only an inspirational developer of the arts, she is an excellent business woman. My wife and I began going to Toby’s when it was the Garland Dinner Theater. Toby turned the Garland Dinner Theater into a financial success as well as an artistic success for more than forty years.

- It is typical to see at least a couple of chartered buses outside the theater and a full house inside.
- Toby’s is very welcoming to all groups. Before each show groups as well as couples or families celebrating special occasions are introduced. The “master of ceremonies” welcoming is an integral part of the Toby’s experience.
- Toby’s caters to individuals and groups (churches, seniors, high school groups, etc.) that have come regularly for years. Toby’s offers shows that have resulted in high attendance and sold-out dates for years.

During the hearing on October 19th many people talked about the impact Toby’s has had in Howard County on:

1. the performing arts,
2. young people who:
 1. have attended performances,
 2. learned to work with a group,
 3. developed their self confidence,
 4. became part of the arts as a career or an avocation.
 1. locally in Howard County, or
 2. throughout the country including New York’s Broadway.

Toby’s is NOT just “a private dinner theatre.” Suggesting that the New Cultural Center Toby’s is “not particularly viable” is at best ignorant. To assert that Toby’s Dinner Theater is a business of questionable financial merit, too dangerous a risk for the county, is

unbelievable. Not only did Toby know how to be sure this enterprise would thrive economically up until now, but everyone who learned from her knows how to make it thrive into the future.

Toby's is a direct continuation of the "risk" James Rouse took to develop Columbia and the "risk" the county commissioners took to approve the "new town zoning" needed for Columbia to be developed over more than 50 years.

It was difficult for the people who had been here many years to adjust to the new arrivals who came because of James Rouse's **vision** of a new city welcoming to all. What was the **vision** of the county leaders in the 1960s? What **risks** were they willing to take as they considered the future of their county?

In the 1960s Charles Miller was one of the Howard County commissioners who **risked** approving New Town zoning for Columbia. They committed to planned rather than haphazard development. Who thinks this was a mistake? City planners and developers throughout the country look to Howard County and Columbia because of the collaboration of James Rouse with the County Government. My wife and I moved to Columbia in 1972. We moved to Fulton in 1981 where we raised our children. In 2016 we moved to Lutheran Village at Miller's Grant in Ellicott City. Paul Miller (son of Charles Miller) is our next-door neighbor. Does the current Howard County council think the Millers and Howard County should not have taken the **risk** to envision the county we have today?

Liz, you implied you were deferring to Deb Jung in opposing the New Cultural Center project. To what does Deb Jung object and why do you support her? You have not made your case. Did you listen to those who testified at the Oct. 19th County Council hearing? I was able to attend the hearing and found the testimonies inspiring. I also read the story the following day in the Baltimore Sun:

<https://www.baltimoresun.com/maryland/howard/cng-ho-cultural-center-public-hearing-20201020-sbatddh6fzat5nqlfqkdlw7l6u-story.html>

During the hearing I was impressed by David Yungmann's questions. He seemed to be trying to understand how much risk (or lack of risk) was involved in the project. I hope he will be persuaded that Toby Orenstein's vision and the New Cultural Center together with new housing are critical to Columbia and Howard County's future.

Does this county council think walking away from millions of dollars devoted to low-cost housing and walking away from the new Toby's Dinner Theater is the smart thing to do? After all the work done by the previous council are they going to walk away from it? If they are still considering ignoring the testimony they heard on Monday Oct. 19th, I would like to suggest a couple of things to them.

I supported Liz in the last election, but it is unfortunate that no incumbent with a link to the council's past is on the current council.

The lack of low-cost housing has been a problem in Columbia not only for the past few years but from the beginning because a Federal subsidized housing program Rouse was depending on became unavailable in the early days of Columbia. We cannot say Columbia is a welcoming community if we refuse to provide housing for our low-income **essential** workers. We expect them to do the work required during the pandemic, but we don't want them to live amongst us.

Beyond the immediate repercussions of not approving this project, have any of the council members considered the impact their vote will have on their legacy? They will be known forever as the ones whose lack of **vision** detrimentally impacted the reputation of Columbia and Howard County in the country forever.

My wife continually tells me I talk and write too much. Most people have probably given up reading this. In closing here are two sayings that come to mind. I think the first comes from Proverbs (I can't find the exact quote):

"Without a vision, the people perish."

"Penny wise and pound foolish."

Peace,

Ray Donaldson

On Oct 14, 2020, at 7:14 PM, Ray Donaldson <rtdonaldson@gmail.com> wrote:

Hi Liz,

Thanks for the information. Columbia United Christian Church (CUCC), my church, has been a member of PATH since its beginning. My participation during Covid-19 has been limited. I'm forwarding this email to RoseMarie Meservey who I believe has been more involved with PATH during this year and to other members of CUCC who may want to know about this.

I knew that Toby's Dinner Theater was part of the same project as the low-cost housing. I personally have not followed the financial details. My assumption was that Toby's, low-cost housing, and some other things were in the same project because they were all in the same area in downtown Columbia.

Toby's Dinner Theater has been a great part of Columbia since somewhere in the 1970s. Toby has been involved with many projects related to the arts including programs for young people. My assumption was that the new Toby's Dinner Theater would have been a small part of the new project compared with the low-cost housing.

Did some major changes take place "nine or so months ago?" I will copy this email to some people from CUCC and some others I think will be interested. I have not seen the "two exhaustive lists to PATH from Council Chair Deb Jung," I would appreciate it if you can send it to me (and all to whom I copy this email). I also appreciate your "good stewardship of this County's limited funds." It would be a big disappointment to me to learn that another effort to provide low cost housing in Howard County has failed for some reason currently unknown to me.

Thanks for your efforts,

Ray Donaldson, Columbia United Christian Church

On Oct 13, 2020, at 9:17 PM, Walsh, Elizabeth <ewalsh@howardcountymd.gov> wrote:

Hi Ray: Council Chair Deb Jung has spent an incredible amount of time with PATH enumerating her concerns with the project as proposed, which I share completely. I've seen at least two exhaustive lists to PATH from her, recently, which I would have expected to have been shared with PATH membership. We can with you, if that's not the case.

In sum, this project—until nine or so months ago—had nothing to do with Council approval or County capital budget expenditures. And even what's before us now is not directly related to affordable housing. We've been asked to approve a \$70M+ sole-source deal to construct what will largely be a private dinner theatre—in the complete absence of any markings of a reasonable business transaction. The County's own market analysis—before COVID—warned the undertaking did not appear particularly viable.

I cannot as a good steward of this County's limited funds—whether spent on items like actual affordable housing, or derived from sources other than a contract with ICE—okay this deal as it's been presented. No can do.

Liz Walsh, Council Member
Howard County Council
Serving District 1

3430 Court House Drive
Ellicott City, MD 21043
410.313.2001

From: Ray Donaldson <rtdonaldson@gmail.com>

Sent: Tuesday, October 13, 2020 7:01:43 PM

To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>

Cc: Salgado Leslie <cuba_is_hope@comcast.net>; IndivisibleHoCoMD <indivisiblehocomd@gmail.com>; Marshall Cynthia <path.iaf@gmail.com>

Subject: Fwd: PATH: Action Team Meeting, Press Conference, and more!

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

Hi Liz,

What's the deal on this. You said you were going to tell me why this plan for new low-cost housing in Columbia was a sham. Please tell me why because low-cost housing in Howard County has been needed since the 1970s.

Ray

Begin forwarded message:

From: Cynthia Marshall (PATH) <cynthia@pathiaf.com>

Subject: PATH: Action Team Meeting, Press Conference, and more!

Date: October 13, 2020 at 12:54:09 PM EDT

To: Roy Donaldson <rtdonaldson@gmail.com>

Reply-To: Cynthia Marshall (PATH) <cynthia@pathiaf.com>



SEAL THE DEAL CAMPAIGN UPDATES

County Executive Ball has pre-filed legislation to save the New Cultural Center project

And YOU helped make this happen! Our phone calls, emails, and other efforts to raise awareness and pressure him to take action were effective. Together, we pushed County Executive Calvin Ball to pre-file before the deadline of September 24.

The pre-filed legislation will now head to a **legislative public hearing** on **October 19** before it proceeds to a full council vote on November 2. At the moment, **we are still unsure of how the full council vote on November 2 will go**; we need one more YES vote on County Council to move funding for the project out of contingency.

[VIEW PRE-FILED LEGISLATION](#)

Help us strategize our next steps

The PATH Action Team is meeting on **Thursday, October 15 at 5PM** via Zoom to plan for the legislative hearing. If you are committed to the **ARTS** and **EQUITY** in Howard County, please join us for this meeting, even if you haven't been involved in the campaign thus far! Your insights and input will help us strategize our next steps.

**PATH Seal the Deal Action Team Meeting
Thursday, October 15 @ 5:00PM
Register to receive Zoom link**

REGISTER TO ATTEND MEETING

 Come to the PATH press conference on Monday, October 19 at 6:30PM

On **Monday, October 19**, PATH is hosting a **virtual press conference** to draw attention to the precarious future of the New Cultural Center project. We will hear from Howard County residents who will share their personal stories of how **arts access** and **housing equity** have shaped their lives.

We want our county officials to know how their decisions affect the lives of everyday Howard County residents. Your presence at the press conference helps strengthen our message!

**PATH Seal the Deal Press Conference
Monday, October 19 @ 6:30PM
Register to receive Zoom link**

REGISTER TO ATTEND PRESS CONFERENCE

 Testify at the County Council hearing afterward

Do YOU believe the New Cultural Center project ought to be built? Will the **arts access, community amenities**, and **housing** that the New Cultural Center will bring improve your quality of life in Howard County?

If so, then sign up to **testify virtually at the October 19 Legislative Public Hearing** to urge the Council to restore funding for the project. The hearing will take place immediately following the PATH press conference at 7PM.

Your testimony can be as short as 1-2 sentences! It is important that our County Council members hear from Howard County residents directly about our desires and vision for our community.

To sign up, click the button below. Select "Legislative Public Hearing - October" > Next > **TAO1-FY2021** > Next. Complete your registration using the HoCo Citizen's Login system.

SIGN UP TO TESTIFY

Plan to attend the hearing virtually as a PATH representative

More information to come, but PATH will be attending the legislative hearing together on October 19 immediately following the press conference. Stay tuned for details on how to register for a PATH watch party and to make our presence known to County Council!

**HoCo Legislative Hearing
Monday, October 19 @ 7:00PM**

BACKGROUND

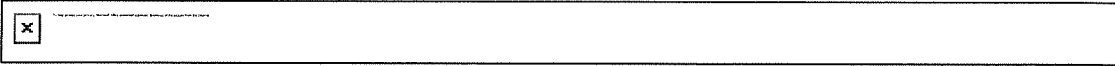
✖

From 2014-2017, PATH leaders and partners fought for and won **900 units of affordable housing** in Downtown Columbia.

These units would be spread throughout several exciting mixed-use developments projects as part of a landmark development agreement. Today, **the first of these projects scheduled for construction (New Cultural Center) is at risk**, and along with it, the hundreds of units of affordable housing for Howard County families.

Read on at the link below for a few ways you can take action with PATH to call on county leaders to **take fiscal responsibility** and utilize \$64 million already set aside for the project that will bring a trove of cultural riches to our community and pave the way for hundreds of Howard County families to live and thrive in Columbia.

[LEARN MORE](#)



GET OUT THE VOTE IN SWING STATES

PATH's sister organizations in Ohio, Wisconsin, and North Carolina are on the ground in these critical swing states, making sure that voters are equipped and informed on their rights to exercise democracy at the polls in November. And they can use our help from Maryland!

Join them for virtual **phone banking sessions** in these final weeks before the election. Never phone banked before? No problem! You won't be doing it alone. We'll gather on Zoom for training, make our calls together, then end with a debrief.

View their schedules and register to get out the vote by clicking the button below.

[LEARN MORE & SIGN UP TO PHONE BANK](#)

x

x

x

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Columbia, MD 21045

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NCC Questions and Request for Documents

Follow-up from 7-16-2020 Workgroup Meeting and Budget Work Sessions

From: Deb Jung, County Council Member

Date: July 28, 2020

Financial Background-Questions

- If the NCC portion of the garage is TIF funded, can it be closed off to only those using the Center and theater?
- Is the \$2.7 million reduction due to the elimination of 120 parking spaces a reduction to the \$9.7 million of TIF bonds?
If so, why is it included in the \$7 million of savings to the NCC?
- Please provide support for all assumptions in the slide "Impact of using additional TIF revenue."
- What is the cost and split of the theater fit out?
- Are the bonds backed by the full faith and credit of the County?

Documents Requested

- The business plan for the facility
- The private fundraising plan and projections
- The governance plan between the County, the private parties and the Housing Commission
- Refined projection of revenue, construction, operating, and financing cost estimates
- Analysis of other operating or capital budget impacts, including bonding capacity and the need for operating reserves
- Site acquisition documents, including contracts for sale and any other ancillary agreements
- Contracts and all related documents between the developer and the project leads including the Housing Commission and Howard County
- Updated marketing analysis on space or other facility requirements as a result of Covid-19
- A description of the public contracting requirements, including competitive bidding, minority business participation and oversight and how this process will be directed by the Department of Public Works and other County departments

- Contracts and documents regarding Toby's, and the agreements, including all business-related agreements, between Toby's, Orchard Development and the County
- The pro-forma for Toby's and the IRS Form 990 for the Columbia Center for Theatrical Arts
- Any documents that detail the business arrangements associated with the proposed housing development, including developer fees

School Impact

- A profile of the housing component, anticipated student generation, and identification of any APFO waiver issues

Miscellaneous

- Information regarding any anticipated payment-in-lieu taxes (PILOT) agreement for the housing component;
- Information regarding anticipated significant environmental and transportation impacts and sewer and water requirements;

The purpose of this memo is to explain to my fellow residents why I continue to have questions about the New Cultural Center and suggest a way forward on this project.

At the outset, I want to emphasize that I support the affordable housing objectives of the proposal and the use of Federal tax credits and State housing funds for that component. I have voted for every affordable housing project that has been before me in the past 1-1/2 years. Two of these projects are in my District and include the greatest intensity of low-income housing units presented before the County Council. The Enterprise property allows for the doubling of units in order to rebuild the existing low-income units, and Robinson Overlook is a new apartment building that will create 43 low-income units out of a total of 48 units.

I understand and appreciate the many years of work that have gone into advocating for affordable housing in Downtown Columbia. Most of my concerns are with the arts and culture portion of the New Cultural Center (NCC). As it is currently proposed, the County has become the sole funder of an arts facility built to the specifications of a private non-profit as the one of the major tenants. When this project was first envisioned, private sources were supposed to provide a significant portion of funding for the NCC. The private-sector funding didn't materialize and the County has now become the funder of last resort, taking on the entire cost and risks associated with the construction and operation of the facility. With increased financial responsibility, there are potential major short- and long-term impacts on County finances, including debt affordability, the timing of other Capital projects, and the County Operating Budget. Other concerns include the unforeseen risks to the taxpayer should best intended plans go awry. Due diligence in such fiscal matters involves thorough analysis of business plans of participating organizations and an updated marketing analysis of the viability of the NCC. The impact of Covid-19 on County finances remains uncertain; however, it may well change the way we live, work, and play for years to come.

I view the County Council as having fiduciary oversight on behalf of Howard County residents and taxpayers and, in this case, providing needed oversight of a major public investment that rivals the construction costs of a new public middle school in an uncertain economic and public health environment. This project shifts major business risks to the County and it is in the best interest of the County and its residents to minimize those risks and reduce costs to the extent reasonable. Moreover, and equally important, I want to ensure transparency and accountability and, to the extent possible, avoid future surprises. I also seek to ensure that future County Executives and Councils are not placed in a financial straight-jacket by creating a situation that will not enable us to meet the core needs of our residents.

Until this year, this project was not in our Capital Program and the County had not been envisioned as the primary funder for and operator of the NCC. In fact, the project was first revealed to us through the capital budget process when we received a copy of the capital budget via email on April 1. This project was never presented to the Spending Affordability Advisory Committee as a means of assessing debt affordability. This is the largest capital project put before this County Council and one of the largest in the history of the County; the Council as a body did not receive a briefing on the project at any point before it was presented in the FY2021 budget. If the Council did not ask questions about a project that will cost approximately \$72 million dollars, we would simply not be doing our jobs.

An example of a recent large capital project that the County Council has approved in the past, the new Court House project, took two years to go through the vetting process and the County Council held multiple public hearings on that project. Multiple bids were solicited, the plans from each bidder were reviewed, and the Council was provided with the contract between the County and the successful

bidder to review before taking a final vote. In fact, then Councilmember Calvin Ball voted against the new Court House because he had not been given a copy of the revised contract before the vote on the project. In this instance, we haven't seen a single contract on any aspect of this project. This Council was given seven weeks to make a decision on the NCC in an environment that involved virtual hearings and meetings and made it very difficult to share information. This is a complicated project involving multiple parties and funding sources, as well as private and public entities.

Unfortunately, the majority of the information that I have requested for the cultural center portion of the project has not been received. The outstanding documents deal mainly with the financial viability of Toby's Dinner Theater, agreements between Toby's and Howard County as well as agreements related to the operation and construction of the NCC.

It will be hard for me to support a major Capital project such as this one unless I can examine the basic agreements and fully understand the responsibilities and liabilities of the parties, as well as the basis for the income projections that are proposed to pay for the debt service on the bonds and associated fees. I also continue to be concerned that one of the largest county capital projects ever to be built is being sole sourced, meaning that no bids were sought by the County from other developers to ensure a fair and open process. Finally, I feel strongly that it is important to have a better understanding of how NCC's largest tenant (Toby's/CCTA) will play in the development, and support of the facility. It is also necessary to consider the impact of COVID-19 on dinner theater operations and other NCC programming.

Below, I have set forth the list of documents that I have requested, the reason for the request, and the status of the request. I hope when you review this list you will understand and agree that these documents should be reviewed before we proceed with this project and the questions I have asked should be answered.

DOCUMENT REQUESTED	REASON FOR REQUEST/COMMENTS	NCC WORKGROUP RESPONSE- STATUS OF REQUEST
Private Fundraising Plan and Projections¹	The fit-out and fixtures for Toby's will be very expensive as it involves building a state of the art theatre in the round and a commercial kitchen; the Orensteins have said that they plan to raise \$3M to pay for the theatre build out and the developer will donate \$1M ² ; a plan as to how the rest of the money will be raised is critical for success. After working for more than 30 years in the nonprofit sector, I have witnessed the difficulties of raising this much money many times. Typically, one needs to hire a development director to reach these types of gifts and be successful.	RESPONSE: NO PLAN WAS PROVIDED Response on 8/10 It was suggested that the Orensteins might try to sell naming rights. I am not aware of any private entity who is a tenant in a Howard County building who has been allowed to sell naming rights in a government-owned building.
The Governance Plan between the County, the Private Parties and the Housing Commission	Given the number of entities involved in this building, the diversity of tenants, the dual ownership and the various control issues involved, a governance plan is critical to establish the relationships, responsibilities, liabilities and control over various aspects of operating the building.	RESPONSE: NO DOCUMENTS WERE PROVIDED Response on 8/10 Although several agreements were referenced (a condominium regime, cross easement agreements, and a

¹ All requests for documents and information were made on 7/28/20.

² It is not clear what the cost is for the PPT, FF&E (Furniture, Fixtures and Equipment). In one Power Point (PP), it was listed as \$1,164,250. In another PP, it was listed as \$3.685 million TOTAL Toby has stated that she will be giving \$1 M worth of costumes to CCTA; CCTA will pay \$3,089,750 and the County will pay \$595,250.

		CCTA lease which I don't believe has been drafted yet) none appear to be drafted or were sent.
Refined Projection of revenue, construction operating and financing cost estimates	This needs to be in one document, summarized, so that the numbers are easily accessible and when changed (as they have been for operating, construction and fit out costs) they can be reviewed for a comparison to previous estimates.	RESPONSE: AN EASILY ACCESSIBLE DOCUMENT NOT PROVIDED- Response provided on 8/10 Hard and soft costs, including associated fees, were not broken out.
Analysis of other operating or capital budget impacts, including bonding capacity and need for operating reserves	<p>Spending affordability information is critical in order to determine how much bonding capacity the County will have left to build other capital projects after we issue the bonds needed to complete this project. A major portion of this project will be funded by Government Obligation (GO) bonds that will generate a debt service payment.</p> <p>The operating costs, which at the outset of this project were going to be borne by the Howard County Arts Council and private fundraising efforts, will now be subsumed by the County. The original operating cost projection was over \$3M and it is now \$1.4M. Additional clarification is needed regarding Toby/CCTA's lease payments, both the timing and the annual amount.</p>	<p>RESPONSE: NO DOCUMENTS OR ANALYSIS PROVIDED. Response on 8/10</p> <p>I was informed that spending affordability criteria would not be affected because of revenue sources. There will not be a capital budget impact because the revenues from the NCC will support the bonds. DRP³ program revenue typically covers the cost of the program and little else. In the workgroup discussion Hal Orenstein indicated a delayed ability to make the annual lease payments of \$759,000. Any shortfall will be defrayed by General Funds in the Operating Budget, putting an annual shift of risk on to the County.</p>
Site Acquisition Documents, including the contract for sale of the property	It is anticipated that the cost of the proposed NCC site, which is owned by the Orensteins, is \$7.2M. This amount is based on only one appraisal. Prior to approval of the project, there should be at least three appraisals of the property and the real estate sale contract should be reviewed by the Council. Again, this is basic oversight on a project of this size.	<p>RESPONSE: NO DOCUMENTS PROVIDED Response on 8/10</p> <p>I was informed that the documents are between two private parties. If the County were not involved as a land purchaser, then that answer would suffice. But it was represented at the meeting on 8/11 that the County would be the ultimate purchaser. The County has subsequently agreed to provide two additional appraisals so as to best determine fair market value.</p>

³ Department of Recreation and Parks

<p>Contracts and related documents between the developer, project leads, Housing Commission and the County</p>	<p>This is a critical part of project oversight. The Council should be providing fiduciary review of this project and ensuring that the County’s money is being spent wisely, that fees are reasonable, and that the County is not taking on unnecessary risk or liability.</p>	<p>RESPONSE: NO DOCUMENTS PROVIDED Response on 8/10 The documents have not been finalized.</p>
<p>An Updated Marketing Analysis on Facility Requirements as a Result of COVID 19</p>	<p>The market for indoor gathering spaces may be impacted for years to come. The two marketing analyses completed for this project were done in 2015 and 2016 (The Webb Reports); both reports pointed out a need to build flexible space rather than cater to a particular group. ⁴ Moreover, the underlying vision of the building has changed. Originally the NCC vision focused on artists’ studios, gallery spaces, and programming that would be run by the Howard County Arts Council as well as performing arts theaters and classes. Now the Department of Recreation and Parks will program the facility and offer a variety of arts-related classes. This is an expansion of scope for the Department. And there has been no discussion on the impact of similar programming offered by the Columbia Association, HCC, the Howard County Arts Council, and the Long Reach Village Center.</p>	<p>RESPONSE: UPDATED MARKETING ANALYSIS NOT PROVIDED Response on 8/10 According to the response I received, an updated marketing analysis is not necessary. A market analyst has informed someone that live audiences will return to theatre when COVID wanes.</p>
<p>A Description of the Public Contracting Requirements, including Competitive Bidding, Minority Business Participation and Oversight</p>	<p>I am not aware of even ONE sole source contract of this magnitude in Howard County (\$137M total, \$72.8M NCC). There is nothing special about this contract that requires it to be sole sourced. The purpose of bidding contracts is to make sure that Howard County residents get the best bang for their buck. There is simply no way to ensure that this has happened here. A publicly bid contract should be reviewed by the Council before the contract is signed as this is the largest public works project that has been sole sourced in County history.</p>	<p>RESPONSE: DESCRIPTION PROVIDED IN PP ON 8/11 This contract will have to go before the Contract Review Committee as it is a sole source contract of over \$100,000. Minority business participation is generally described in the 8/11 PP and we were told that minority participation would meet goals. It is unclear if there is minority business participation on the developer team.</p>
<p>Columbia Center of Theatrical Arts (CCTA) Federal Form 990 and a Pro Forma for Toby’s</p>	<p>These documents are needed to assess the financial viability of the primary NCC tenant (CCTA). This is central to my concern that we carry out our fiduciary duties as stewards of our residents’ funds.</p> <p>This is important to validate that the dinner theater (proposed to be reconstituted as part of the CCTA non-profit)</p>	<p>RESPONSE: 990 FORM PARTIALLY PROVIDED ON 8/10/20 PRO FORMA NOT PROVIDED I was directed to the CCTA website to view the 990 Forms. Only the 2017 FORM 990 was available on the website; no other 990 forms were made available.⁵ See below for 990 highlights from the 2017</p>

⁴ The 2015 Webb Report stated: “Arts organizations will come and go given their fragile balance sheets and the competitive pressures they face. Facilities should be able to accommodate multiple users at once, or successive users in quick order, so as not to be dragged down by any one user facing a dark future.”

⁵ **Highlights from 2017 Form 990:** TOTAL revenue \$535,664 TOTAL contributions & grants \$205,442; Gifts, grants, and non-governmental grants \$103,184; Fundraising events \$0; TOTAL program service revenue \$325,207 TOTAL Expenses \$495,010 TOTAL Revenue less expenses \$40,654

	<p>can realistically meet its lease and other obligations. Information thus far has only provided unaudited gross revenue figures.</p> <p>It is unclear who is currently on CCTA's Board of Directors and the CCTA website is outdated.</p>	<p>form. I was asked to clarify what I meant by a pro forma. This was intended to mean a profit and loss statement detailing operating expenses (such as salaries, marketing, utilities, interest on any debt) and revenues (ticket sales, sponsorships, etc.). The most recent three years would be a reasonable time frame.</p>
<p>Business Plan for the Facility</p>	<p>A business plan for a facility of this size with the variety of activities, tenants and entities (government, nonprofits, for-profits) involved in this endeavor should have a business plan that indicates who the tenants will be, the expected income from the tenants, a statement of net and gross revenue and expenses, marketing, programming, costs, etc. It is a multifunctional \$72.8M building with government oversight of numerous organizations, including a private theatre. At a minimum, there should be a summary of the key lease provisions, including those pertaining to any required CCTA operating reserves, default, termination and remedies, well in advance to the project being considered by the Council. The submission should have the involvement and approval of the Office of Law.</p>	<p>RESPONSE: NOT PROVIDED While there are elements of a business plan contained in the PPT presented, it was stated that the lease between the County and CCTA constituted the business plan for the facility and that the general terms and financial provisions have been negotiated. A lease is not a business plan.</p>

Additional Questions and Concerns

Toby's and CCTA

CCTA lease payment in the NCC is projected to be \$750,000 (2025) and increase by 3% per year. In the PowerPoint presentation, revenues were shown to have dropped by approximately \$17,000 between 2017 and 2019.

- What are Toby's and CCTA's financial condition in 2020 and what are the anticipated steps and timeline for the gifting and management transition? If requested, I believe that this could be handled in a confidential setting as proprietary information may be involved.

Mrs. Orenstein has stated several times that she is gifting Toby's to CCTA. This statement raises more questions:

- What is the transition plan for folding Toby's and CCTA together and has the CCTA Board of Directors approved the plan?
- Will Toby's and CCTA be run as two separate organizations? Will they have separate accounting?
- Three theatres are being built: one will be occupied by CCTA, one by Toby's Dinner Theater, and another by DRP. Will there be two separate leases for CCTA and Toby's? Will the lease amount that has been discussed be for both theatres?
- Does Toby's Dinner Theater carry any secured or unsecured debt? Are there one or more recent audited financial statements for the company?

- Mr. Orenstein stated that gross revenue is anticipated to grow by at least 10-15%. What is the basis of that projection, particularly in light of Covid-19?

The Way Forward

As I stated at the outset of this memo, I am fully supportive of the affordable housing portion of this project. It is funded and has support throughout the community.⁶ However, there are a number of factors dealing with the cultural center that should be weighed and examined before moving forward.

We need to assess where the County is financially in light of the pandemic, a recession, and severe unemployment. Can we afford the debt service burden and extra operating expenses that were not anticipated when this project was originally envisioned? With a recent and complete change in the funding of the NCC and the entity responsible for running and programming it, there arises a need for more oversight and a closer review of documents that will be put in place to build, manage, and program the NCC space. An analysis and review are possible with cooperation from the parties involved, although it may take a few more months to understand the financial impact of COVID-19. I look forward to continuing this conversation and ensuring that this significant investment is one that the County has undertaken wisely and with the utmost of care.

⁶Presumably, the 87 students projected to attend schools who live in this building will contribute to a projected overcrowding of Downtown Columbia schools in the near future. "Due to the projected new construction, in-migration, and other factors, it is anticipated that this area of the county may need over 650 seats to maintain 100 percent capacity utilization in the region through 2030. At a minimum, it is projected that 350 seats are needed to stay within target utilization. Capacity utilization for this group of schools is projected to exceed 110 percent by 2026, with five out of the six over 110 percent capacity by 2030." <https://www.hcpss.org/f/schoolplanning/2020/2020-feasibility-study.pdf>, pg. 26-27