

ArtsAlliance

August 15, 2012

The Arts Alliance Response to the Ann Arbor Public Art Millage Proposal introduced by Ann Arbor City Council Member Christopher Taylor

Mr. Taylor's Proposal: Please see the attached see the attached in depth Ann Arbor Chronicle article for information on Mr. Taylor's millage proposal and the history Ann Arbor's Percent for Art Program.

Definitions: The term "public art" as used in this statement is defined as permanent or temporary art installations on city property and paid for with city funding. The term "community art and cultural programs" are defined as those programs that are produced and presented by nonprofit organizations and creative entrepreneurs without designated city funding—organizations such as UMS, The Ark, Michigan Theater, Ann Arbor Hands on Museum and the Ann Arbor Potters Guild.

What We Have in Ann Arbor and What We Stand To Lose

The Ann Arbor region is widely recognized as an outstanding arts and cultural community that rivals the offerings of cities that are much larger and have more resources. For decades we have enjoyed and profited from our brand as THE cultural mecca in Michigan and a cultural destination known throughout the country! The creative sector has greatly benefited our region and helps to make it a great place to live, work, learn, play, and visit.

Based on surveys and testimonials, our community places a high value on arts and culture.

The Ann Arbor region has such a strong arts and cultural sector despite the lack of public funding, and without significant foundation or corporate support that benefit other communities. We need to secure significant investments for the sector to insure that the Ann Arbor region continues to be on the creative cutting edge.

Our position as Michigan's cultural mecca is in jeopardy as other communities around the state – understanding deeply the positive community impact – have made solid commitments and real investments to enhance their cultural sector and to brand their cities and towns as the place to go for arts and culture. Consider initiatives in Grand Rapids, Traverse City and even Oakland County as examples. We are disappointed and concerned that while other cities invest, Ann Arbor must continually defend its one modest, if imperfect, effort: the Percent for Art program to beautify City infrastructure projects.

Public Funding for the Creative Sector in the Ann Arbor Region

- The Arts Alliance believes that adequate funding for arts and culture is critical to the growth and sustainability of the creative sector in every city in Washtenaw County. Public funding for arts and culture – both public art installations and community based programming– is a reasonable source of funding to consider.
- The Arts Alliance is currently exploring the viability of public funding in Washtenaw County, including both set-aside funds for public art in every jurisdiction and a general, comprehensive, countywide millage to support community arts and culture programs.

Such public funding resources, if approved by voters, would reflect the high value that our residents put on arts and cultural offerings in a similar way that public funding for parks, libraries and public transportation reflect the high value placed on those services. In addition, such funding may provide the investments necessary to insure that the Ann Arbor region continues to be on the creative cutting edge.

- Experienced advisors have suggested that in order to do a millage properly, it would take 12 – 18 months to poll the community on the concept and, if favorable, set the millage at the right level, consult with community leaders to expose support and opposition, place the proposal on the ballot at the right time and educate the community while conducting the campaign. That time would also allow establishment of an appropriate mechanism for distribution and allocation of funding, which would help the community determine whether the millage is appropriate. The budget to mount such a campaign would be somewhere between \$50,000 and \$100,000.

The Arts Alliance's Position on Public Art

Public Art is critical to Quality of Life and Place: Any community committed to providing high quality of life and place for its citizens should invest in public art. Public arts programs exist in cities, towns and villages all over the United States and throughout the world. Public art makes the places we live, work, learn, play and visit more welcoming and beautiful. It also provides additional benefits such as:

- Allowing the community to express its identity and values.
- Demonstrating pride in place.
- Increasing the community's assets by creating images that help define a space.
- Creating a deeper interaction between residents and their environment.
- Adding dimension to civic spaces.
- Affirming the educational environment.
- Differentiating neighborhoods and enhancing way-finding.
- Beautifying the transportation systems, by enhancing roadsides, pedestrian corridors and community gateways.
- Helping green space thrive.

Public Education is critical to successful Public Arts Programs: The Percent for Art program has been controversial for a number of reasons, one of which is that there has been little general community education about the benefits of public art or community engagement in setting the goals for Ann Arbor's program. Public art education will help build common understanding and vocabulary, while providing definitions of and models for public art programs, funding, administration and selections appropriate for our community. Such education provides citizens the opportunity to explore how public art stimulates beneficial community dialogue and debate through opportunities to engage with and learn from creative thinkers and practitioners, as well as local university and national experts in public art, creative placemaking, art and the environment, art as economy and cultural tourism.

Introduction of a Public Arts Millage in Ann Arbor by Christopher Taylor

As noted above, the Arts Alliance supports public and community arts and culture, and considers public funding a viable option for sustainable funding. That being said, the millage

proposal submitted by Christopher Taylor - while well intended – raises many questions and poses a number of concerns for the cultural sector.

1. **Planning & Consultation** – While we applaud Mr. Taylor’s initiative and his interest in preserving public art funding, we would have preferred that he consulted the Ann Arbor Public Arts Commission (AAPAC), the Arts Alliance and the cultural community so that he would gain understanding of the opportunities, risks and potential impact that a public arts millage would have on the broader cultural sector and initiatives.
2. **Timing** –Introducing the millage proposal on August 9th provides little time to vet the idea and create a strategy, before calling for a council vote August 20th which is required so that the millage can appear on the November ballot.
3. **Impact** – Voters may be confused by the timing of this public arts millage. They may be less apt to approve it because it was hurriedly pushed through, and it will be but one of a number of millage proposals on the November ballot. Citizens may misunderstand that this proposal is for public art ONLY and does not support for community arts and cultural programs. Without that understanding, community arts programs stand to lose donations and memberships as citizens believe they “already gave” through their taxes.
4. **Administration** – The proposal does not provide enough information on how such a millage would be administered, the administrative costs, nor how decisions would be made on what qualifies as public art and what programs are eligible for funding.

Conclusion – The Arts Alliance believes that our region benefits from strong community and public arts and culture programs made possible at this time primarily by private funding and some public funding. Increasing public funding will certainly enhance our creative community. The Arts Alliance respects and applauds the intention of Mr. Taylor’s millage proposal but finds it requires consultation with AAPAC and the arts and cultural sector before introducing it at council. To quote a colleague “As we [the arts and cultural leaders] know from experience with the Detroit Zoo, DIA and the Minnesota effort (all of which were successful) a step like this involving arts and culture needs significant research, vetting, hard work, political organizing, money, a united commitment...and TIME. We as an arts/cultural community are not ready; more importantly, neither is the electorate.”

The Arts Alliance encourages Mr. Taylor to withdraw his millage proposal to allow time for a more fully-developed comprehensive strategy to be prepared.

The Arts Alliance recommends that we work together – politicians, commissioners, the arts and cultural sector and citizens – to improve the functioning Percent for Art program and afford the time to do what is necessary to ensure that the Ann Arbor region benefits from a well-conceived, comprehensive, successful and sustainable public and community arts and culture funding plan worthy of citizen and City Council support.

Excerpted from

the ann arbor chronicle

Ballot Questions: Parks, Public Art Funding

Ann Arbor city council debates proposals for Nov. 6 ballot

By [Dave Askins](#) August 13, 2012 at 6 pm

Public Art Millage

The council was asked to consider a resolution that would place a question on the Nov. 6 ballot, asking Ann Arbor voters to pay a 0.1 mill tax for four years to support public art.

Public Art Millage: Content

The ballot question would read:

Shall the Charter be amended to limit sources of funding for public art and to authorize a new tax of up to one-tenth (0.10) of a mill for 2013 through 2016 to fund public art, which 0.10 mill will raise in the first year of levy the estimated revenue of \$459,273?

The corresponding charter language would be [emphasis added]:

Funds for Public Art

SECTION 8.24. In addition to any other amount which the City is authorized to raise by general tax upon the real and personal property by this Charter or any other provision of law, the City shall, in 2013 through 2016, annually levy a tax of up to one-tenth (0.10) of a mill on all taxable real and personal property situated within the City for the purpose of providing funds for public art, including but not limited to the permanent and temporary acquisition, maintenance and repair of works of art for display in or on public structures or sites and/or as part of or adjacent to public streets and sidewalks, and performance art on City streets, sidewalks or sites. Except for funds previously raised, set aside, allocated or otherwise designated to be used for public art, including such funds in the July 1, 2012 to June 30, 2013 fiscal year budget, and except for funds that are received by grant, gift, bequest or other donation to the City for public art, for the duration of this millage, the City shall not raise, set aside or designate funds for public art in any other manner. This millage also shall not preclude the grant, gift, bequest or other donation to the City of works of art.

One mill is \$1 for every \$1,000 of taxable value on a property. So for a house worth \$200,000, with a state-equalized value of \$100,000, a 0.1 mill public art tax would cost that property owner \$10 per year. In Ann Arbor, a rule of thumb for the amount of revenue generated by 1 mill is \$4.5 million. So a 0.1 mill public art tax would generate roughly \$450,000 annually.

In place since 2007, the city's Percent for Art program requires that 1% of the budget for any capital improvement project be set aside for public art – up to a cap of \$250,000 per project. More than \$1 million in Percent for Art revenues have been expended to date, primarily for the Herbert Dreiseitl water sculpture in front of city hall.

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By year, here's how much money has been set aside for public art by the Percent for Art program, according to information provided to The Chronicle by public art administrator Aaron Seagraves:

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|-------|-----------------------|
| FY 08 | \$318,689 |
| FY 09 | \$521,457 |
| FY 10 | \$450,166 |
| FY 11 | \$451,213 |
| FY 12 | \$334,660 |
| FY 13 | \$320,837 (estimated) |

So the proposed millage would generate somewhat more money per year than the Percent for Art program has generated, on average, over its first six years of existence.

If approved by voters, the public art funds from a millage would not necessarily be restricted to permanent "monumental" type art, as the current Percent for Art funds are. The additional flexibility afforded by a millage-based public art program might include the ability to fund performance art or support artist-in-residency programs. It would also enjoy the endorsement of a referendum, eliminating the criticism that residents had not voted on the question of the Percent for Art program.

Public Art Millage: History

As far back as [Feb. 1, 2009 at a council Sunday caucus](#), Marcia Higgins (Ward 4) publicly expressed her concern about the large amount of money the program was generating. Later that year, at a [Dec. 7, 2009](#) meeting, the council gave initial approval to an ordinance revision that would have reduced the allotment from 1% to 0.5%. But at the council's following meeting, on [Dec. 21, 2009](#), the council voted down the ordinance revision, with councilmembers citing art as key to Ann Arbor's identity.

At the Aug. 9 meeting, Ann Arbor resident Thomas Partridge peruses a Detroit Free Press article about the Detroit Institute of Arts millage that won voter approval on Aug. 7, 2012.

In connection [with approval of the fiscal year 2012 budget in May 2011](#), Higgins brought forward a budget amendment that would have directed the city attorney to prepare an ordinance amendment to reduce the percentage in the public art ordinance from 1% to 0.5%. That attempted amendment failed on a 4-7 vote. Six months later, the council again gave initial approval to a reduction in the percentage allocated from 1% to 0.5%. But in its [Dec. 5, 2011](#) vote, the council ultimately opted to make only a minor tweak to the ordinance, without changing the basic percentage.

During deliberations on [May 7, 2012](#) about a piece of public art to be commissioned for the city's new justice center, Stephen Kunselman (Ward 3) mentioned the possibility of establishing a millage just for public art. Kunselman has been a vocal critic of the funding mechanism of the Percent for Art program, based on the idea that it is not legal to appropriate public utility funds or dedicated millage funds for other purposes to public art, as the city's Percent for Art ordinance does.

The council voted down a proposal by Kunselman on [April 2, 2012](#) to request a legal opinion on the question from city attorney Stephen Postema.

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Public Art Millage: Analysis

The effect of passing the public art millage would be to suspend the accumulation of funds for public art purposes under the city's current Percent for Art ordinance. The language that does that is this:

... for the duration of this millage, the City shall not raise, set aside or designate funds for public art in any other manner.

Christopher Taylor has stated that the reason that the Percent for Art ordinance cannot be repealed with the same ballot resolution is a state law restricting ballot proposals to a single question. [From an email Taylor has sent to constituents of his]:

... state law requires that ballot measures be one-subject, Yes/No questions. For this reason, we cannot ask the voters to approve or reject a millage AND effect an ordinance repeal in the event of a No vote.

The state law in question is the Home Rule City Act:

A proposed charter amendment shall be confined to 1 subject. If the subject of a charter amendment includes more than 1 related proposition, each proposition shall be separately stated to afford an opportunity for an elector to vote for or against each proposition. If a proposed charter amendment is rejected at an election, the amendment shall not be resubmitted for a period of 2 years.

Taylor's email to constituents continues:

That said, after a No vote, one could easily imagine an effort to wind down the program on the grounds that the people had spoken and rejected taxpayer support for the arts.

Taylor does not indicate that he would support such an effort to "wind down" the Percent for Art program – only that he can imagine such an effort. Based on the results of the Aug. 7 primary election, the necessary votes to repeal the Percent for Art ordinance might exist on post-general-election council in November – even without Taylor's vote to repeal it. That scenario would allow Taylor to maintain that he'd never voted in a way to place funding for public art in jeopardy.

But if the public art millage were approved by voters, then the ballot initiative mandates that funds would not be set aside for public art through the Percent for Art ordinance for the duration of the millage. And if the public art millage were not approved by voters, then Taylor appears to be indicating that the council would be inclined to repeal the Percent for Art ordinance – even if that took place without his vote.

If the Percent of Art ordinance will not persist after the millage vote election – no matter what the outcome – it is not clear what argument would exist against repealing of the ordinance before a millage vote.

With the Percent for Art ordinance in place during the millage vote, the intent of voters in casting yes and no votes is not necessarily clear. A no vote might mean, "I support public art funding, and I think that the best way is through the Percent for Art ordinance, not this millage that I'm being asked to approve." On the other hand, a yes vote might mean, "I do not support

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the use of public money on public art, but if it's going to be spent, then I prefer that the funds be flexible enough to support performance art."

If the city council were to eliminate the Percent for Art funding mechanism before the millage vote – through a partial rescinding of the ordinance (keeping the parts that establish the public art commission) – it would give clarity to the question on the ballot and to voters' intent.

However, repeal of the Percent for Art ordinance before the millage vote would likely require Taylor's vote of support for the repeal – given the current composition of the council.

Public Art Millage: Adding to the Agenda

Christopher Taylor (Ward 3) had added the item to the agenda at the start of the meeting, though he seemingly had not wanted or planned to do so, and had intended only to share the content of the resolution with his colleagues, without placing it on the agenda formally. Taylor's demeanor at the table as he added the item, and the fact that he was unprepared to name the title of the agenda item, is consistent with the idea that Taylor added the item to the agenda only because of pressure from a council colleague just prior to the meeting.

According to city council rules, an item can only be added to the agenda with a 3/4 majority, and typically a separate vote is taken on the action to add the item, and then on the amended agenda. However, mayor John Hieftje, who chairs city council meetings, skipped the vote on the agenda addition.

The secrecy that Taylor maintained around the proposal was a point of friction for some councilmembers. Responding to an email from a WDET reporter asking for an interview, Jane Lumm wrote back to the reporter:

When I became aware that a ballot initiative was to be added (again, at the start of the council meeting), I did attempt to obtain information about the initiative from [city attorney] staff, but was told they were instructed and "not permitted to discuss" the matter. (That's a verbatim statement.)

Responding to an emailed query from The Chronicle, Taylor refused to say whether he'd instructed the assistant city attorney to keep information from other councilmembers, but defended that kind of secrecy as an appropriate application of the attorney-client privilege:

... the ACP [attorney-client privilege] exists to incentivize clients to consult with their lawyers. Client knowledge of the law, its boundaries and opportunities is a social good. In this context, we want council members to consult with the attorney's office – we want members to enlist the assistance of counsel early and often. If Member Jones thought that Attorney Miller would cavalierly discuss the subject of their conversation – the legal advice given to Jones – then that would have a chilling effect. In this case, Jones would not readily consult with counsel and the public would be harmed. It strikes me, therefore, that the attorney who declines to speak with one council member about legal advice given to another council member does so in the public interest.

By way of comparison, the Legislative Services Bureau – the group of attorneys who help legislators in Lansing do research, draft bills and the like – is bound by strict confidentiality rules with respect to their work for different legislators. So if a state legislator wants to work on a new

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bill and shield that work from other legislators, then the rules of confidentiality for the LSB would allow a legislator to keep that work secret, as Taylor did.

Public Art Millage: Taylor's Remarks

The secretive nature of the work was one aspect Taylor had anticipated as objectionable, based on the prepared speech he read aloud. Although he had not previously indicated publicly his intent to bring forward this proposal, he portrayed the initiative as one that had been arrived at collectively:

I view this proposal without a sense of authorship, but rather as a collective product – the sum total of the many conversations we've had at this table and in and among the public.

Another foreseeable objection to the timing of the proposal was that input from the public art commission had not yet been sought.

The proposal did not originate with the commission; when The Chronicle reached Marsha Chamberlin, chair of Ann Arbor's public art commission, by phone on the afternoon of Aug. 9, she told The Chronicle that she had not heard anything about the specific proposal until a few days ago, when she'd received a phone call to get her reaction to the concept. The issue has not been discussed at AAPAC's monthly meetings, which are regularly covered by The Chronicle.

Taylor appeared to have anticipated the same criticism that had been made against the timing of the parks charter amendment proposal – that the park advisory commission had not yet been consulted. So Taylor indicated that he hoped to receive input from the public art commission, as part of the public input the council would receive before the council voted on the question of putting an art millage in front of voters.

He then contrasted the function of the public art commission as compared to the park advisory commission, pointing out that the public art commission is primarily a body that implements policy, not one that advises the council on policy as the park advisory commission does.

In order to meet before the council's Aug. 20 vote, the commission would need to call a special meeting – because its next regular meeting is scheduled for Aug. 22. And subsequently the public art commission did call a special meeting, for Aug. 15 at 4:30 p.m. in the basement of city hall.

Taylor's remarks also included the standard arguments for using public money to pay for art.

Public Art Millage: Council Deliberations

After Taylor's immediate move to postpone the issue, councilmembers weighed in with generally supportive comments. Stephen Kunselman (Ward 3) told his colleagues that he'd already submitted his request for co-sponsorship as soon as he'd found out about the resolution. "Kudos to councilmember Taylor, I'm so, so, so pleased that you have taken the lead on this." Kunselman said he'd support the resolution, saying it's exactly what the community needs to move forward with public art.

Mayor John Hieftje followed up on Taylor's attempt to portray the effort as "collective," pointing out that several other councilmembers had previously floated the idea. He noted that the restrictions that are placed on the funding due to their source make it difficult to fund the kind of art that people would like to – and that's the fundamental reason why the millage is needed.

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Tony Derezinski (Ward 2), who serves on the public art commission, noted that the commission had bemoaned the restrictions on the use of funding. The restrictions are onerous, he said, but the millage is a good alternative to that. He felt that the public art commission would want to understand the reasons for the proposal.

Sandi Smith (Ward 1) appreciated the postponement, because she wanted the public art commission to have a chance to weigh in on it – to be consistent with the council's approach to the parks charter amendment, when the council had sought input from PAC before voting. Hieftje assured Smith that the public art commission would be able to meet, saying that the commission was going to meet anyway to talk about something else. [It's not clear what he was referring to, as there had not been any special meeting scheduled at that point.]

Sabra Briere (Ward 1) supported the postponement, because the council had not had a chance to look at the proposal, and the public needed to weigh in as well. It's not desirable for the council to look like the proposal was being rushed onto the ballot.

Jane Lumm (Ward 2) supported the postponement, as well as the resolution. But she complained about the lack of a heads up about the proposal. She told Taylor it would have been a nice gesture to have included those councilmembers who also had been interested in the topic.

She called Taylor's announcement the "most surprising thing" she has seen since she has returned to the council [following her election in November 2011, after having served in the mid-1990s]. She wanted to see the council work in a more open, collaborative, cohesive fashion. Analyzing the resolution as partially a response to the Aug. 7 primary elections, Lumm concluded, "It's truly amazing what a few elections will do."

Carsten Hohnke (Ward 5) indicated support for the postponement. He felt the point of introducing it and then postponing it was to seek the kind of collaboration that Lumm had mentioned. So rather than having the resolution on the agenda on the Wednesday before the next council meeting, it would be available to the public sooner. He looked forward to the conversation over the next couple of weeks and hearing from residents about what they thought.

Outcome: The council voted unanimously to postpone action on the public art millage resolution until Aug. 20.