

To: The Washtenaw County Board of Commissioners

I'm writing regarding Commissioner Conan Smith's interest in being hired as director of the Washtenaw County Office of Community & Economic Development. This job, formerly held by Mary Jo Callan, has not had a permanent appointment for more than a year.

My concern is about the ethical lines that Conan Smith may have crossed to exert influence over this hiring process in a way that would benefit him directly. This potentially includes influencing the timing of a job posting and speaking to staff about his interest in the job.

The board of commissioners is not responsible for hiring county employees, other than the county administrator. So there's no reason for commissioners to be involved in the hiring process for other county staff, much less a single commissioner acting alone.

The board itself has recognized the problematic nature of a single commissioner trying to exert influence on county staff, and put in place rules to prevent this kind of overstep. From the board rules, adopted unanimously in early 2016:

- I. Individual members of the Board of Commissioners do not have the authority to direct the work of County employees; only the Board as a collective body speaks for the County and provides policy direction to the County Administrator and employees.

The notion of "direction" is fraught with ambiguity involving explicit and implicit statements. The most solid defense against an accusation of "direction" by an individual commissioner on a policy issue would be that no conversation on the topic ever took place. That kind of defense is not possible here.

Under any conditions, it is inappropriate to use the power of an elected office to pursue a self-serving goal. This would be dubious behavior at any time.

But during an election cycle, this breach of public trust is far greater. Voters in District 9 are surely unaware that Conan Smith may have plans to quit his elected position – if he secures the OCED job. Did he know of his intent to seek this job before he filed for re-election? Did he know of his intent prior to the deadline for other candidates to run for commissioner as an independent? When was he planning to make this decision public? After the Nov. 8 election?

If he intended to make no announcement until after the Nov. 8 election, it would prevent even a write-in challenger from running for the District 9 seat. This raises the specter of additional unethical machinations – that Smith might already be soliciting individuals to be appointed to the District 9 seat after Nov. 8, thereby circumventing the right of voters to choose their representative.

This is not a question about whether it's legal for an elected official to apply for a job within the government that the official leads. (The question of whether Conan Smith meets the [minimum threshold of qualifications for this job](#) is also a separate matter – though it's worth noting that the county conducted a national search to fill similar positions previously.)

Rather, it is an obvious ethical problem when an official seeks a publicly funded, highly compensated staff job while still in a position of power and authority over the person responsible for hiring that job. (The top

end of the pay range for this job is \$120,000.) And it's an obvious ethical problem when this happens without public awareness during an election cycle.

It is also worth noting that many states and local governments include policies that prohibit a sitting elected official from being hired for several months – or more – after they are no longer in an elected position. Macomb County, for example, enacted an ethics ordinance that prevents elected officials from being hired for a year after leaving elected office. ([See section 3.4.C Incompatible Employment.](#)) Wayne County's ethics ordinance also prohibits employment of elected officials for a year after leaving office, unless approved by a three-fourths majority of the board. ([See section 40-4 \(c\)\(2\) Standards of Conduct – Incompatible Employment.](#))

More generally, these issues are addressed in best practice recommendations of the Michigan Municipal League's [Ethics Handbook](#). That document is worth reviewing, particularly for its recommendations regarding conflicts of interest, disclosure, improper use of position, and personal interests.

Washtenaw County government is not a family business. The county board of commissioners is not a social club.

Over the years I've frequently observed the willingness of public officials to look the other way when someone who's part of their political or social network crosses ethical lines. When this kind of casual corruption takes place at the local level – when there are no repercussions – then such behavior becomes part of the accepted political culture. It spreads to all levels of government, and leads to even greater corruption, which correlates with distrust and disengagement of the electorate. When we see it happening, we must speak out.

I understand why Conan Smith would want to hedge his bets by applying for the job but not publicly discussing it until he is re-elected. But I can't understand why other commissioners would accept his behavior and become complicit in this ethical breach.

If Conan Smith decides to apply for the job as director of OCED, he should resign his position as District 9 commissioner immediately. If he applies for the job but fails to resign, the board should pass a resolution directing the interim county administrator not to hire any sitting commissioner for this job. I don't see any other ethical option.

Respectfully,

Mary Morgan
District 9 resident/voter
a2marymorgan@gmail.com