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## Petition update

### Save the Ward Museum at Schumaker Pond, Salisbury, Maryland

# Closing the Petition - Save the Ward Museum on Schumaker Pond, Salisbury, Maryland



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United States

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Despite over 5,600 signatures, our efforts to Save the Ward Museum on Schumaker Pond appears to have fallen on deaf ears. The University has remained determined to reallocate, disburse, and reduce the Wildfowl Art Collection across its campus archives, a Museum of Eastern Shore Culture on West Main Street, and among other institutions.

The University's position has been that "as long as litigation is taking place, no discussion will be considered". This statement is a gross misreading of the intent of those in the community who consider the University a pillar institution of local cultural partnerships. In no case has there ever been a lawsuit filed against the University nor has been the intent of those who care about the museum to choose to pursue this route.

As of this just over one year anniversary, the building remains unoccupied with its fate uncertain. Recently, a former director has launched a petition to have the Ward Museum and surrounding grounds dedicated as a Maryland State Park, which would be a first for Wicomico County. It is an alternative route to the Save the Ward Museum original petition



and those who share this view are welcome to endorse that petition. For those who signed the Save the Ward Museum, no such intent was stated, and this leaves open the preferences of those who may wish to support the State Park proposal.

Attached is a summary of efforts to Save the Museum for those interested in where we have gone.

### **THE WARD MUSEUM COLLECTION, ITS SIGNIFICANCE AND HISTORY**

The Ward Museum collection is said to be the most extensive and qualitative assembly of wildfowl art in the United States. It has a worldwide reputation. It represents a visual history of the state's cultural and artistic past, as well as a repository of some of the best current work. The Eastern Shore is the center of the Atlantic flyway, providing recreational hunting, and fueling tourism, supporting local business, and attracting new residents and businesses.

The centerpiece of the Museum is an extensive collection of wildlife carvings from the early and mid 20th century by brothers Lem and Steve Ward of Crisfield, Md. Their work is considered the finest of its day, acknowledged as the folk and fine art gems of working decoys. The collection includes works by carvers from other areas as well as the Eastern Shore and Chesapeake Bay areas. Wildfowl art has now become an art form of its own, with kinship and separation from its folk-art roots. The collection was largely amassed by the 501 (c )(3) entity "The Ward Foundation" through donations from the Ward Brothers, collectors, the public and the carver community.

The Museum's existence is one of the centerpieces of Wicomico County's business and tourism industries. Photos of its recognized architectural home and presence in the community are on official publications designed to attract both tourists, new businesses and residents. Promotional materials emphasize it with the zoo and other local attractions. The site for the Museum on an arterial road and Schumacher Pond provides for easy access to both tourists and residents, a waterfront ambience that complements its purpose, and significant space for parking, trails and outdoor space for public use, as well as for possible expansion. The Museum structure was specifically designed for its purpose and location and has received much praise and architectural acclaim. The Museum is an educational institution of significance focusing on environmental and historical areas and plays an important role in SU's program and reputation.



The Ward Foundation solicited funds from the public to construct the present museum building from which the Ward Foundation was ejected, and the collection removed by Salisbury University. The property on which the architectural gem was built for the museum was largely donated by the City of Salisbury and Wicomico County. Generally, Salisbury University was supportive of the original museum project; it housed the collection as the project headed toward a successful launch. According to the tax assessment the property has a monetary value of about \$4,000,000. today.

Following the formal opening of the museum in 1991, the Ward Foundation hired professional museum administrators, established community services, coordinated with the carver community, expanded its collection, and supported public education and community involvement. Memberships, volunteers and professional museum exchanges and the usual museum activities were established. It became the focus of the establishment and administrative support for current wildfowl carving artistic awards and events, including notably the World Wildfowl Carving competition held annually in Ocean City.

The museum was certainly one of the reasons the City of Salisbury was chosen as the home of the National Folk Festival for 5 consecutive years, and as the site of the Maryland Folk Festival this year. The collection of wildfowl art is practically irreplaceable today and has a monetary value of many millions in excess of the real estate value.

From its establishment in 1968 until the year 2000, the Ward Foundation operated on its own with public support and grants from non -public entities. It then found itself unable to meet its mortgage payment obligations incurred for the original building construction. Although its mortgage represented but a very small percentage of its net worth, the Museum Board felt that additional public support was necessary. Salisbury University stepped forward, with the support of the University system, and presumably the Board of Public Works, accepted a transfer of All of the assets of the Ward Foundation together with All of its obligations to donors who had provided the collection, the property and building.

A central stipulation was the continued administrative and fundraising ability of the Ward Foundation, in a strong partnership with Salisbury University. (See an Attachment hereto which consists of a memorandum to local counsel for SSU on the applicable law, together with a cover letter).



The documents establishing the transfer terms are recorded in the land records of Wicomico County. Salisbury University undertook responsibility for the fiduciary obligations to the public and to donors as well as donating some \$1.6 million to pay indebtedness or operational expenses due at that time by the Ward Foundation. These documents are referred to more fully in the Attachment to the letter to the Attorney General and the Secretary of State, included with this attachment. (that Attachment refers to the nature and extent of not only the duties assumed by Salisbury University, but also to the duties under Maryland law of the Offices of the Maryland Attorney General and the Maryland Secretary of State to enforce the obligations of those holding or administering charitable assets).

Salisbury University made clear in the acquisition documents its commitment to be an active supporter of the museum in both specific and general terms, which undertakings were presumably made known to and authorized by the Board of Public Works. The University determined to leave operational details of the museum to the Ward Foundation. As a condition of its acceptance of the museum properties, Salisbury University stipulated that a local individual supporter of the museum raise a one-time specific sum of money for operations. In turn, the University agreed to support local community efforts. Delegate Norman Conway and others worked to obtain an annual appropriation for operations from the State in the amount of \$200,000. For administrative purposes, this annual support was routed through the state budget for Salisbury University. That appropriation has been continued for over 20 years and is considered to be included in the present budget year.

Including the museum closing during the COVID pandemic, for some 22 plus years, the museum has operated without incurring long term debt. It recently (just before the COVID outbreak) with SU backing solicited over a million dollars from the public to construct an addition to the Museum. While Salisbury University's contributions over this period to manage administrative costs have been helpful, they have been modest: under \$130,000 a year until recently when SU contributed an additional \$70,000. toward increasing maintenance expenses (in addition to the \$200,000 per year championed by Delegate Conway).



During these 22 plus years, Salisbury University did however require significant expenditures by the Ward Foundation for audited statements and other reports, and that a number of its nominees serve on the Board. Indeed, at the time of the termination of the Ward Foundation involvement by Salisbury University an Assistant Dean and several faculty members served on the Board in a cooperative fashion. The SU members resigned when Salisbury University terminated its agreement to work in partnership with the Ward Museum Board.

## THE TERMINATION

According to members of the Ward Foundation Board present at the time, late in 2022, representatives of Salisbury University verbally informed the Board that their agreements with Salisbury University would be formally terminated, the Museum building closed, and the collection removed. They were told the decision was final, but it was to be kept a close secret from any public knowledge until the University readied its Public Relations efforts for public consumption. University representatives have since indicated their decision had been initiated by the University Board of Regents on grounds that Salisbury University address and cease support for activities not directly related to their core function of student-centered education. Understandably the Executive Director and other key employees sought other employment opportunities. In addition to Salisbury University faculty, a number of other Directors of the Foundation also resigned when the SU decision was announced.

It is unknown if the Board of Regents formally made any determination about the museum, or what SU might have presented to them to explain and defend the strong relation of the Museum and its activities to its core educational focus. A press release by SU cited the Ward Foundation's financial statement as a cause of concern, but since it had transferred all its assets years ago to SU, its balance sheet is destined to be meaningless.

As events illustrate, Salisbury University (its President retired as the University museum closing plans were in process, and a new President arrived as its decision was publicly announced) deliberately determined not to provide either the Ward Foundation or the local community with any opportunity to put in place any alternative or supplemental support for either continued operation at the acclaimed museum property or elsewhere, nor to provide any comment or suggestion.



Prior to any announcement Salisbury University made arrangements for a lease (terms not disclosed, although it is said to be for 10 years) of the ground floor of an almost 100-year-old building in the downtown area which had been vacant for many years. The space is believed to total under 20% of the space of the original museum structure and would require complete interior construction and adaptation for exhibition use. SSU undertook removal and storage of most of the museum collection, and of the as yet unknown redo of its leased space.

Whether the space for a fraction of the collection will occupy even the entire storefront leased property is unknown. No hiring of a professional museum director is believed to have taken place. The rear entrance to the building closest to existing parking is entered only by utilizing a full flight of stairs.

There is and will be limited public parking with significant competitive demand from existing and proposed residential use. The Schumaker Pond Museum building remains closed. Salisbury University has declined to disclose its plans, or even options under consideration, for reuse for University purposes, or possible sale or lease.

Salisbury University has also referred to extensive cost issues with the existing building, as justification for the closing. Such issues are to be expected after 22 years of use following SSU acceptance of ownership and responsibility. The University appears to have made no capital expenditures on the structure (except for a contribution toward the recent addition) over its decades of ownership and to the termination. The University could have required the Ward Foundation to raise funds for those issues or taken other steps, but the obligations of the Ward Foundation were limited to maintenance and operation (see paragraph 6 of Agreement dated June 19, 2000), leaving capital needs such as replacement of HVAC systems, roofs etc. as Salisbury University's sole responsibility. Independent professional estimates obtained by the Ward Foundation for HVAC replacement and other items differ markedly from the figures made public by Salisbury University. Ironically, now Salisbury University is left to spend public funds to preserve both the value and prospective use of the building after the eviction, in addition to the expenditure of funds for the new and clearly inadequate space it has apparently rented.



## THE AFTERMATH

Clearly, Salisbury University had carefully solicited some support for its downtown token exhibit space before the public was informed of its completed action. When announced, a significant public and donor opposition to the closing spontaneously developed. Donors of substantial sums for the addition to the museum property so recently completed have complained, as have some donors of items to the museum collection. A recent public complaint unrelated to our efforts is attached.

The Wicomico County Council scheduled a public hearing/discussion about the closing in the Spring. At its April 4, 2023 County Council Session, Salisbury University officials made a presentation. In response, dozens of citizens and the Ward Foundation itself expressed opposition to the abrupt closing, the lack of advance discussion of alternatives, and the inadequate alternative Salisbury University had announced. With the unanimous support from the Council, the President of the County council wrote to the Governor and to Salisbury University essentially requesting further consideration.

A group of interested citizens started to meet to discuss alternatives. From these meetings, a petition to save the Ward Museum on Schumaker pond has generated thus far just over 5,600 signatures.

A retired attorney authored a letter and memorandum (attachment hereto) to the office of the local counsel for Salisbury University, as to the legal issues relating to the matter and the respective duties of the office of the AG and Secretary of State. No response has been received. Counsel for SSC, in response to a follow up call, stated that the letter/memo had been sent on to University of Maryland AGs, but she had received no reply. A message was left for the University of Maryland Assistant Attorney General who, from other sources, was understood to have been tasked with a review, but no response was forthcoming. Direct involvement in these issues derive from his service as a representative of the State of Maryland on the Uniform Law Commission. Uniform Law Commission work was the foundation of the Maryland legislation specifically authorizing public authority to enforce the charitable trust doctrine in the public interest.



Following the passage of time without a response to prior communication, the local informal group seeking further consideration made inquiries with Salisbury University personnel about a meeting with the new Salisbury University President to discuss the issues. She was informed that no such meeting with the President or others could take place upon direction of the AG's office, because there was a "threat of litigation". The nature and source of such threats is unknown. Our prior letter expressly declined any such interpretation, expressing confidence in a further review by the Attorney General's office. The lack of a response certainly indicates that whatever review was made supported a conclusion that the action rested on at best very dubious rationale, litigation by one with standing would be a real issue, and that the best result in Salisbury University's sole interest was not to reply, further ignoring the competing public interest the law stipulates is to govern.

Instead, Salisbury University appears to have concentrated on causing the remnants of the Ward Foundation Board to abandon their public opposition to the Salisbury University action, and any theoretical legal action right. The documents executed when Salisbury University took over the Museum in 2000 state that the Ward Foundation, if its agreement with Salisbury University was terminated, "shall take all necessary steps" to transfer to Salisbury University its bank accounts, excepting an amount equal to its cash on hand in June 2000.

Given the financial situation at that time such amount would be insignificant. However, we understand that Salisbury University permitted the Ward Foundation to retain its entire operating bank account consisting of over \$300,000. What will happen with additional pledges of grantor support in this fiscal year is unknown.

## **CONCLUSIONS AND OPTIONS**

The first step is to comply with the Maryland statutes and common law applicable to the situation. There are of course practical problems resulting from the precipitous steps taken under prior Salisbury University leadership. Steps forward require first an acknowledgement by Salisbury University to honor its public obligations as to the museum collection and property, in addition to agreement to enter a process of examination of available alternatives consistent with the language and intent of the applicable charitable trust doctrine. A second step is establishment of a process to achieve a result consistent with the first step. It is obviously beyond the scope of this communication to examine all these issues in detail. A few illustrative points only are here suggested.

1. A process to find a successor non-profit operator to which the museum assets, and its obligations to the public and donors, should have been undertaken. That could be undertaken now. In such a case all the assets of the museum should be preserved and transferred to a successor, just as they were transferred to Salisbury University in the first place. Such assets would seem to include another \$300,000 donated to the Salisbury University Foundation for the benefit of the museum, which is presently at risk. Other obligations of Salisbury University would be discussed. There exists a local group of citizens with the necessary contacts prepared to assist with such an effort. Above all, the entire collection should be preserved for exhibit in a museum setting. Obviously, management issues, funding, expansion into other areas of art, etc. would be ahead.

Instead of assuring the continuation of the Museum, Salisbury University seems to have decided to close the museum, convert the building to another charitable use (education) or sell it, and use a small part of the collection as part of its existing art exhibits. Boxes and boxes of wildfowl art need to be properly and permanently stored, insured, preserved in clean safe and climate-controlled space, catalogued, etc.



the collection to melt away. An alternative with private fundraising for reopening the museum at its traditional location with repairs, a new board and entity charged with operation and possibly expansion of its collection, all without additional burden on Salisbury University. If another location were to be determined advisable by the replacement charitable entity, a sale of the existing property would provide funds for relocation.

2. If alternative 1 above proves unworkable, other alternatives should be explored, including transfer to other locations and entities outside the Salisbury area, if necessary to preserve the museum.

3. The matter could also be submitted by Salisbury University to the Wicomico County Circuit Court under an existing Maryland statute, although the standards for repurposing charitable assets do not appear to be present. Another alternative could involve outside counsel being involved. Clearly the office of the Attorney General is conflicted here. It represents State Universities and by statute is also charged with representing the public interest in these charitable matters. It appears that the AG's existing policies concerning conflict of interest situations may not have been applied. The Board of Public Works could also be involved; it seems they should have been consulted before closure in any event.

4. Salisbury University could reconsider and discuss constitution of a new charitable entity to operate the museum in a cooperative fashion, with Salisbury University remaining the title owner of the assets. A defined set of cross responsibilities, including, of course, fundraising by the new entity, would need to be set out. Other alternatives can be discussed. The original arrangement with a private non-profit as the operator does have considerable advantages to Salisbury University: Many grant making organizations will not make grants to public entities; community financial support will be enhanced by community involvement.

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Given the decision to move the County library from its present location to a renovated Ward Museum building, and the proposed construction of a University Performing Arts Center in the site now occupied by the current County library, the aforementioned suggestions may appear moot. What should not be forgotten in the process is an alternative plan and steps that could preserve the Ward Museum building to uphold its historic mission.

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