

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE

FREDERICK W. PAYNE  
JOHN BOSLEY YELLOTT, JR.  
(aka Jock Yellott)  
EDWARD D. TAYLOE, II  
BETTY JANE FRANKLIN PHILLIPS  
EDWARD BERGEN FRY  
VIRGINIA C. AMISS  
STEFANIE MARSHALL  
CHARLES L. WEBER, JR.  
LLOYD THOMAS SMITH, JR.  
VIRGINIA DIVISION, SONS OF  
CONFEDERATE VETERANS, INC.  
ANTHONY M. GRIFFIN  
BRITTON FRANKLIN EARNEST, SR.  
THE MONUMENT FUND, INC.,

Plaintiffs,

v.

Case No. CL17-145

CITY OF CHARLOTTESVILLE, VIRGINIA  
CHARLOTTESVILLE CITY COUNCIL  
ATRI MICHAEL SIGNER  
WESLEY JOMONT BELLAMY  
ROBERT FRANCIS FENWICK, JR.  
KRISTIN LAYNG SZAKOS  
KATHLEEN MARY GALVIN

Defendants.

FILED  
*October 11, 2017*  
(Date & Time) *11:06 pm*  
City of Charlottesville  
Circuit Court Clerk's Office  
Liezette A. Dugger, Clerk  
By *[Signature]*  
Deputy Clerk

**AMENDED COMPLAINT**

Come now Plaintiffs and represent unto this Honorable Court as follows:

**Jurisdiction**

1. That this complaint concerns two public parks and two public monuments located in the City of Charlottesville, Virginia. One park is known as Lee Park, which Park is improved by a statue of and monument to General Robert E. Lee. One park is

known as Jackson Park, which is improved by a statue of and monument to Lieutenant General Thomas Jonathan "Stonewall" Jackson. Both monuments are memorials of the War Between the States and to veterans of that War. The Parks and monuments were donated to the City by native son and benefactor, Paul Goodloe McIntire.

### Parties

2. That Plaintiff Frederick W. Payne (hereinafter "Payne") is a resident of the City of Charlottesville, Virginia. He is a registered voter in the City, owns real estate in the City, and pays City real estate taxes, personal property taxes and other taxes. He utilizes and enjoys both Lee Park and Jackson Park and the monuments erected therein on a regular basis.

3. That Plaintiff John Bosley Yellott, Jr., aka Jock Yellott (hereinafter "Yellott") is a resident of the City of Charlottesville, Virginia. He is a registered voter in the City and pays City personal property taxes. He is the Executive Director of Plaintiff The Monument Fund, Inc. Yellott has worked to preserve both the Lee and Jackson monuments, has a financial interest in the outcome of the litigation, uses one or both Parks daily, and personally conducts history tours describing the monuments.

4. That Plaintiff Edward D. Tayloe, II (hereinafter "Tayloe") is a resident of the City of Charlottesville, Virginia. He is a registered voter in the City, owns real estate in the City, and pays City real estate taxes and personal property taxes. He is a combat veteran of the United States Army, having served in the Special Forces Group in Vietnam. He is a past president of The Lee-Jackson Foundation and has a special interest in the protection and preservation of war memorials and monuments located in the City,

including those of Generals Lee and Jackson. The Lee-Jackson Foundation contributed money to the 1997-1999 restoration of the statues (see paragraph 21, *infra*).

5. That Plaintiff Betty Jane Franklin Phillips (hereinafter "Phillips") is a collateral descendant of Paul Goodloe McIntire. In the event of a reversion of the Lee and Jackson statues and Lee Park and Jackson Park, or an award of damages for the conduct of Defendants, she will represent the interests of the McIntire family.

6. That Plaintiff Edward Bergen Fry (hereinafter "Fry") is the great-nephew of Henry Shrady, the sculptor engaged by Paul Goodloe McIntire to create the Lee monument. He resides in Albemarle County, Virginia. He has an interest in protecting the Lee monument on account of his ancestral connection to the sculptor, and also because Henry Shrady is a sculptor of note who created the Ulysses S. Grant Memorial, which is located in Union Square, west of the United States Capitol Building.

7. That Plaintiff Virginia C. Amiss (hereinafter "Amiss") is a resident of the City of Charlottesville, Virginia. She is a registered voter in the City, owns real estate in the City, and pays City real estate taxes and personal property taxes.

8. That Plaintiff Stefanie Marshall (hereinafter "Marshall") is a resident of Albemarle County, Virginia. She is Chairman of Plaintiff The Monument Fund, Inc. She personally expended money and effort in cleaning and removing graffiti from the Lee monument in 2011 and in 2015.

9. That Plaintiff Charles L. Weber, Jr. (hereinafter "Weber") is a resident of the City of Charlottesville, Virginia. He is a registered voter in the City, owns real estate in the City, and pays City real estate taxes, personal property taxes and other taxes. He is a combat veteran of the United States Navy, having served as a fighter pilot in Vietnam.

He has a special interest in the protection and preservation of war memorials and monuments located in the City, including those of Generals Lee and Jackson.

10. That Plaintiff Lloyd Thomas Smith, Jr. (hereinafter "Smith") is a resident of the City of Charlottesville, Virginia. He is a registered voter in the City, owns real estate in the City, and pays City real estate taxes, personal property taxes and other taxes. He is a combat veteran of the United States Marine Corps, having served in the Korean War. He has a special interest in the protection and preservation of war memorials and monuments located in the City, including those of Generals Lee and Jackson. He was the agent for a group of private citizens who donated money for the restoration of the Lee and Jackson monuments in 1997, 1998 and 1999 (see paragraph 21, *infra*). He personally negotiated with the City concerning the donation and the conditions associated with the donation.

11. That Plaintiff Virginia Division, Sons of Confederate Veterans, Inc., (hereinafter "Virginia Division, SCV") is a Virginia corporation. Its Commander is Plaintiff Anthony M. Griffin (hereinafter "Griffin"), a resident of the Commonwealth of Virginia. Plaintiff Britton Franklin Earnest, Sr. (hereinafter "Earnest") is a member of the Board of Directors of Virginia Division, SCV, and serves as the Heritage Defense Coordinator for Virginia Division, SCV. He is a resident of the Commonwealth of Virginia. These Plaintiffs have an interest in preserving and protecting the Lee and Jackson monuments and the parks in which they are located. Plaintiff Virginia Division, SCV contributed funds to the 1997-1999 restoration of the statues (see paragraph 21, *infra*) and has also raised and disbursed money for this litigation.

12. That Plaintiff The Monument Fund, Inc. (hereinafter "Monument Fund"), is a non-profit 501(c)(3) corporation operating under the laws of the Commonwealth of Virginia, and has an interest in preserving and protecting the Lee and Jackson monuments. The purpose of the Monument Fund is to support historic preservation with a focus on monuments, memorials and statues, and the grounds that frame them, and where necessary, to fund litigation to protect and preserve them. Plaintiff Monument Fund has also raised and disbursed money for this litigation.

13. That Defendant City of Charlottesville, Virginia (hereinafter "City") is a municipal corporation and a political subdivision of the Commonwealth of Virginia. The City owns the Lee statue, Lee Park, the Jackson statue, and Jackson Park.

14. That Defendant Charlottesville City Council (hereinafter "City Council") is the governing body of the City. Its powers are conferred by the General Assembly of the Commonwealth of Virginia.

15. That Defendants Signer, Bellamy, Fenwick, Szakos and Galvin are the five (5) members of City Council.

#### **Monuments, Memorials And Parks**

16. That by letter of R. A. Watson, attorney for Paul Goodloe McIntire, dated February 5, 1918, to the Mayor of the City, Mr. Watson stated that Mr. McIntire wished to present to the City the "Venable Property" (now known as Lee Park) for the purpose of establishing a park, and that he would cause to be erected in the park an equestrian statue of General Robert E. Lee. This letter appears in Charlottesville Common Council Book E, and a copy is attached hereto as Exhibit A. By Resolution dated February 14, 1918, which was then approved by the City Common Council and the Board of Alderman, the

gift was accepted. The Resolution noted that "an equestrian statue of our beloved hero, General Robert E. Lee", would be erected in the center of the park. A copy of the Resolution, which appears in City Ordinance Book 1, is attached hereto as Exhibit B. Nowhere does the Resolution accepting the gift or the deed reserve unto the City or its governing body the power to name or rename the park or to remove the Lee statue

17. That by deed dated June 14, 1918 and recorded in the Clerk's Office of the Circuit Court of the City of Charlottesville, Virginia in Deed Book 32 at Page 7, Paul Goodloe McIntire caused the land now known as Lee Park to be donated to the City for use as a public park. The deed is attached as Exhibit C. The deed stipulates that a statue of General Robert E. Lee will be erected on the property. The land and statue were officially dedicated to the City on May 21, 1924. The conveyance was made on the condition that no "buildings" be erected on the park, and gave the City the "right and power to control, regulate and restrict the use" of the property. Nowhere does the Resolution accepting the gift or the deed reserve unto the City or its governing body the power to name or rename the park or to remove the Lee statue. The City unconditionally accepted the gifts of the property and the statue.

18. That on or about May 21, 1924, University of Virginia President Edwin A. Alderman accepted McIntire's gift of the Lee statue on behalf of the City of Charlottesville and the County of Albemarle.

19. That by deed dated December 24, 1918 and recorded in the Clerk's Office of the Circuit Court of the City of Charlottesville, Virginia in Deed Book 32 at Page 240, Paul Goodloe McIntire caused the land now known as Jackson Park to be donated to the City for use as a public park. The deed is attached as Exhibit D. The deed stipulates that

the property be known as "Jackson Park". The conveyance was made on the condition that no "buildings" be erected on the park, and also gave the "authorities" of the City the "right and power to control, regulate and restrict the use" of the property. The gift was accepted by the City on January 18, 1919. See Extract from Minutes of the Board of Aldermen held on January 13, 1919, a copy of which is attached hereto as Exhibit E. McIntire subsequently donated a statue of Confederate Lieutenant General Thomas Jonathan Jackson to the City and caused it to be placed in Jackson Park. The Park and statue were dedicated to the City on October 19, 1921. Neither the resolution accepting the gift nor the deed itself reserve unto the City or its governing body the power to name or rename the park or to remove the Jackson statue. The City unconditionally accepted the gifts of the property and the statue.

20. That in a Resolution dated January 18, 1926, thanking McIntire for the gifts of property that would become McIntire Park and Washington Park, City Council said as follows: "These new parks and play grounds together with the library, the parks and play grounds and statues already given to the City by Mr. McIntire have added beauty to the City which is without equal and will stand as perpetual monuments and reminders to future generations of the greatest benefactor in the history of the City."

21. That on or about November 26, 1997, the City accepted the offer of \$43,750.00 in donated private funds to restore the statues of Generals Lee and Jackson. The City's acceptance included an agreement to maintain records of the restoration perpetually, to establish a program of periodic maintenance, and to present an appropriate ceremony celebrating the restoration. In May 1998 the City contracted bronze restorer Nicolas F. Veloz to clean and restore the bronze statues of Generals Lee and Jackson. On

or about September 26, 1999 the City accepted the re-dedication of the cleaned and restored Lee monument in a ceremony at its unveiling.

21A. General Robert E. Lee, hereinafter also referred to as "Lee" and "General Lee", was the commander of the Confederate Army of Northern Virginia, and after February 1865 supreme commander of all Confederate forces, during the War Between the States. He surrendered to Union General Ulysses P. Grant at Appomattox Court House on April 9, 1865, precipitating the end of the War Between the States. The General Robert E. Lee monument, located in the formerly named Lee Park (now renamed Emancipation Park) is an historically accurate statue of General Lee, in his military dress uniform, with his rank insignia and ceremonial sword, mounted on his war horse, Traveller. His uniform and equipment, as depicted on the monument, are consistent with his service to the Confederate States of America during the War Between the States as a Confederate officer. For these reasons, and those stated below in paragraphs 21B – 21G, it is a monument or memorial for the War Between the States (1861-1865), a Confederate monument, and a monument, or memorial for a war veteran, under Virginia Code §15.2-1812 and 1812.1 as amended, and Virginia Code §18.2-137 as amended.

21B. Born the son of a Revolutionary War hero and a general officer in the Continental Army, Lee was appointed to the United States Military Academy at West Point in 1825. He graduated in 1829, second in his class, with one of the most distinguished academic records in the history of the Academy, and was commissioned an officer in the United States Army, Corps of Engineers. As an engineer, he supervised many innovative public works projects, rising to the rank of captain. When war broke out with Mexico, he commanded combat troops under General Winfield Scott, who later



described him as "the very best soldier that I ever saw in the field." He returned from Mexico with the brevet rank of colonel. From 1852 to 1855 he served as superintendent of the Military Academy. In the latter year, he was awarded the permanent rank of lieutenant colonel in the newly raised Second Cavalry and served on the western frontier, rising to the rank of colonel. In 1861, he was offered command of all United States army combat forces by General Scott. Refusing to fight against Virginia, he resigned his United States Army commission on April 20, 1861, three days after Virginia seceded from the Union. Three days later, Governor Letcher appointed him commander of all military and naval forces of the Commonwealth. On May 14, 1861, after Virginia joined the Confederacy, Lee was commissioned a brigadier general, then the highest existing rank, in the regular Confederate Army, soon after being promoted full general. He served for the remainder of the War in several top positions, most notably as commander of the famous Army of Northern Virginia, and ultimately as the commander of the entire Confederate Army until his surrender at Appomattox Court House in 1865.

21C. The original sculptor Paul Goodloe McIntire commissioned for the Lee monument was Henry Shrady, who died before he could complete the project. After Shrady's death sculptor Leo Lentelli took over the project. Lentelli inspected Lee's Confederate uniform and measured its military insignia down to the brevets on the sleeve, and also took measurements of the taxidermied remains of Traveller, to get the proportions exactly right. The monumental bronze sculpture displaying General Robert E. Lee in dress military uniform with his hat in hand, ceremonial sword at his side, and depicting Traveller at a stolid walk, represents Lee returning to his troops after his

surrender at Appomattox, at which point the war had ended for Lee and his troops, and thus the monument is a memorial to a veteran of the War Between the States.

21D. The monument is also a memorial to the War Between the States itself, specifically to the end of that war, because the City of Charlottesville on February 19, 1918, while World War I was raging, in their acceptance of the gift of the monument depicting Lee after the surrender at Appomattox stated that they lauded the vision of the donor Paul Goodloe McIntire to “look beyond the dark chasm of War and with steady eye and clear vision behold the triumphant day when, freed from the curses and blighting the nations and people of the earth influence of war shall return to their peaceful pursuits.”

21E. The City acknowledged that both the Lee and Jackson monuments are Confederate monuments and memorials to war veterans in its resolution dated May 2, 2016 creating a commission, describing both the Confederate General Lee and Confederate General Jackson monuments as “Confederate statues” and tasking the commission with deliberating the disposition of “the two large Confederate monuments in Lee and Jackson Parks, including moving the memorials to a museum or historic site, changing their context to reflect current values, or adding new memorials . . . “ [emphasis added].

21F. In the approximate time period of 1998 to 1999, the City of Charlottesville acknowledged the monument honoring Confederate General Robert E. Lee was a memorial to a Confederate veteran by erecting in front of the Lee monument a Civil War Trails marker (which the City removed in July 2017) stating that the Lee

monument was one of those that “memorialize those who fought for the Confederate cause.”

21G. That at the time of Paul Goodloe McIntire’s donation of the monument of General Robert E. Lee to the City of Charlottesville, the “Confederate veterans of Charlottesville and the county of Albemarle” passed a resolution thanking Mr. McIntire for the gift of a “beautiful equestrian statue of our great commander, General Robert E. Lee,” stating “[t]he old veteran, with bowed head, will come to this shrine to drop the tear of his affection . . . ” and “[i]n making our acknowledgments to Mr. Paul G. McIntire, we but voice the sentiments of every true soldier who followed Lee.” Thus Confederate veterans at the time of the donation acknowledged the monument to General Lee was a memorial to one of their own, a veteran of the War Between the States. McIntire’s response stated “I hope that when the monument is unveiled we will all be there to honor him who showed the world how he could be greater in defeat than in victory,” confirming the donor also considered it a monument to the postwar Lee, a memorial to a Confederate veteran.

#### **Statutory Provisions**

22. That the Lee statue and the Jackson statue are Confederate monuments and memorials of the War Between the States protected by the provisions of Section 15.2-1812 of the Code of Virginia, 1950, as amended. Code Section 15.2-1812 provides in part as follows:

If such are erected, it shall be unlawful for the authorities of the locality, or any other person or persons, to disturb or interfere with any monuments or memorials so erected, or to prevent its citizens from taking proper measures and exercising proper means for the protection, preservation and care of same. For purposes of this section, “disturb or interfere with” includes removal of, damaging

or defacing monuments or memorials,....

The Lee statue and the Jackson statue are also memorials to war veterans of the War Between the States.

23. That Section 15.2-1812.1 of the Code of Virginia, 1950, as amended, creates an additional private cause of action if any monument, marker or memorial for war veterans described in Code Section 15.2-1812 and Code Section 18.2-137 is "violated or encroached upon". The action may be undertaken by any person having an interest in the matter if the attorney of the locality in which the publicly owned monument, marker or memorial has not commenced action within sixty days following any such violation. Section 15.2-1812.1 allows recovery of punitive damages for "reckless, willful or wanton conduct resulting in the defacement of, malicious destruction of, unlawful removal of...monuments or statues on [sic] memorials for war veterans." This Code section also allows recovery of litigation costs, including reasonable attorney's fees, if the party who initiates the action prevails.

24. That Section 18.2-137 of the Code of Virginia, 1950, as amended, makes it a criminal offense to "unlawfully ... remove...any monument or memorial for war veterans described in § 15.2-1812."

25. That the Lee statue, Lee Park, the Jackson statue, and Jackson Park, are subject to and protected by the foregoing statutes.

26. That Defendants are required by law to protect and to preserve the aforesaid historic monuments, where Section 15.2-1812 of the Code of Virginia, 1950, as amended, proscribes the authorities of a locality, or any other person or persons, from disturbing or interfering with any monuments or memorials erected as monuments or

memorials for any war or conflict, to include removal of, damaging, or defacing such monuments or memorials, such as the aforesaid monuments.

27. That Defendants are required by law to protect and to preserve the aforesaid monuments where Section 18.2-137 of the Code of Virginia, 1950, as amended, prescribes that if any person unlawfully destroys, defaces, damages, or removes ... any monument or memorial for war veterans described in Section 15.2-1812 of the Code of Virginia, 1950, as amended, shall be Guilty of a Class 3 misdemeanor, ... and that if any person intentionally causes such injury, he shall be guilty of ... a Class 6 felony if the value of or damage to the memorial or monument is \$1,000.00 or more.

#### **City Council Resolutions**

28. That on February 6, 2017 three (3) of the members of City Council purported to pass a Resolution that the City remove the statue of Robert E. Lee from the park currently known as Lee Park. Defendants Szakos, Bellamy and Fenwick voted for the Resolution. Defendants Signer and Galvin voted against the Resolution. A copy of the Resolution is attached hereto as Exhibit F.

29. That on February 6, 2017 three (3) of the members of City Council purported to pass a Resolution that the park known as Lee Park in the City of Charlottesville be renamed. The votes for and against the Resolution were the same as alleged in foregoing paragraph 27. A copy of the Resolution is attached hereto as Exhibit G.

30. That on February 6, 2017 the members of City Council unanimously purported to pass a Resolution, among other things, to redesign and transform Jackson

Park, to add a new memorial to Jackson Park, redesign Lee Park, and to support a renaming of Jackson Park. A copy of the Resolution is attached hereto as Exhibit H.

31. That the said members of City Council, in purporting to adopt the aforesaid Resolutions, voted to disturb or interfere with, to include removal of, damaging, or defacing, and to destroy, deface, damage, or remove, or alter the aforesaid monuments of Lee and Jackson, which constitute monuments or memorials for the War Between the States and monuments or memorials for war veterans, with no knowledge of or regard for the cost or the legality of their actions, and in total disregard of the language of Virginia Code Section 15.2-1812.

32. That implementation of the aforesaid Resolutions will involve considerable expenditure of taxpayer funds. The City Manager indicated to City Council that the estimated cost of removing and relocating the Lee monument would be \$330,000.00. The report on which he relied is attached as Exhibit I. Exhibit H provides for a budget not to exceed \$1,000,000.00 to implement the provisions of the Resolution. Whatever the cost, it will be borne by the taxpayers of the City, including those of Plaintiffs who are City residents and taxpayers.

33. That the attorney for the City has not commenced an action for the violations alleged herein within sixty (60) days as provided in Code Section 15.2-1812.1 (A)(1). By letter dated February 15, 2017 to Fred D. Taylor, the Charlottesville City Attorney stated that he declined to commence an action pursuant to said Code Section. A copy of the letter is attached as Exhibit J.

34. That Plaintiffs are persons who have an interest in this matter. In addition, Plaintiffs have an interest in protecting and preserving the Lee and Jackson monuments and the parks in which they are situated.

**Causes Of Action**

**Count One**

**Statutory Violations**

35. That Plaintiffs incorporate herein and re-aver the allegations set forth in foregoing paragraphs 1 through 34.

36. That the purported action of members of City Council directing the removal of the Lee statue from Lee Park is a direct violation of Code Section 15.2-1812, thereby creating a cause of action for Plaintiffs against Defendants under Code Section 15.2-1812.1.

37. That removal of the Lee statue from Lee Park is also both a violation of the statute and an encroachment upon the statue.

38. That removal of the Lee statue from Lee Park is also in violation of Code Section 18.2-137.

39. That at the time the members of City Council purported to pass the foregoing Resolutions, they were charged with knowledge of the applicable statutes (see paragraphs 22, 23 and 24, *supra*), of the provisions of the deeds gifting the parks and statues to the City, and of the agreements described in foregoing paragraph 21. During the public deliberations of the members of City Council, there was discussion about obtaining an opinion from the Attorney General of the Commonwealth of Virginia before any action was taken as to the legality of their proposed actions. Upon information and

belief, Plaintiffs allege that no such opinion was ever requested or issued. Several of the members of City Council acknowledged that the matter would likely precipitate litigation.

40. That in intentionally voting for the removal of the Lee statue from Lee Park, Defendants Szakos, Bellamy and Fenwick acted in a grossly negligent, reckless, willful, wanton and intentional manner, and are thus subject to punitive damages. They are not immune from liability for intentional or willful misconduct or gross negligence under Section 15.2-1405 of the Code of Virginia, 1950, as amended, and other provisions of general law, for their conduct.

41. That Defendants Szakos, Bellamy and Fenwick are further liable to Plaintiffs for their reasonable litigation costs and attorney's fees incurred in connection with this statutory violation (Code Section 15.2-1812.1).

### **Count Two**

#### **Ultra Vires**

42. That Plaintiffs incorporate herein and re-aver the allegations set forth in foregoing paragraphs 1 through 41.

43. That Defendants City, City Council, Szakos, Bellamy, Fenwick, Signer and Galvin have no legal authority to remove the Lee statue from Lee Park, to rename Lee Park, to place additional monuments in Jackson Park, or to rename Jackson Park.

44. That the February 6, 2017 Resolutions to remove the Lee monument and to rename and to redesign Lee Park and to redesign and transform Jackson Park, violate the Dillon Rule, which narrowly defines the power of local governments and states that if there is any reasonable doubt whether a power has been conferred on a local government,



then the power has not been conferred, and Virginia has not provided such home rule authority to its local governments.

45. That therefore the individual members of City Council acted outside the scope of their lawful authority and are thereby subject in their individual capacities to claims for damages and other relief.

46. That insofar as the Resolutions attached as Exhibits F, G and H purport to address the matters set forth in foregoing paragraph 43, they are void and of no effect.

### **Count Three**

#### **Violations Of Terms Of Gifts**

47. That Plaintiffs incorporate herein and re-aver the allegations set forth in foregoing paragraphs 1 through 46.

48. That the gifts of the Lee statue, Lee Park, the Jackson statue and Jackson Park were charitable gifts made to the City by Paul Goodloe McIntire.

49. That the City accepted the gifts.

50. That the City holds such gifts in trust for the use, benefit and enjoyment of its citizens, including Plaintiffs Payne, Yellott, Tayloe, Amiss, Weber and Smith.

51. That the City Council Resolutions attached hereto as Exhibits F, G and H violate the terms of the gifts.

52. That the City, City Council and the individual members of City Council do not have the legal authority to modify the terms of the gifts.

53. That the Resolutions attached hereto as Exhibits F, G and H (insofar as it applies to the Lee and Jackson statues and Parks) are therefore void and of no effect.

54. That the Resolutions, as alleged in preceding paragraph 52, violate the terms and intentions of the original gifts of the statues and Parks, thereby creating a cloud on the titles to the Parks to the detriment of the residents and taxpayers of the City, including the individual Plaintiffs in this case.

Wherefore Plaintiffs pray that they be granted the following relief:

1. That the Court determine and declare that the Resolutions passed by Council (Exhibits F, G and H), insofar as they affect Lee Park, the Lee monument, Jackson Park, and the Jackson monument, be declared in violation of the laws of the Commonwealth of Virginia and therefore that they are void and of no effect.

2. That Defendants be temporarily and permanently enjoined from removing the Lee monument from Lee Park, renaming Lee Park, redesigning Lee Park, and from redesigning and transforming and renaming Jackson Park.

3. That Plaintiffs recover and have monetary judgments against each of the Defendants Szakos, Bellamy, Fenwick, Signer and Galvin for actual damages in an amount to be determined by the Court, but not less than \$500.00 for each Plaintiff, and for punitive damages against each such Defendant in the sum of \$100,000.00, with interest on said judgments at the legal rate from February 6, 2017.

4. That Plaintiffs recover from all Defendants their costs and attorney's fees expended herein.

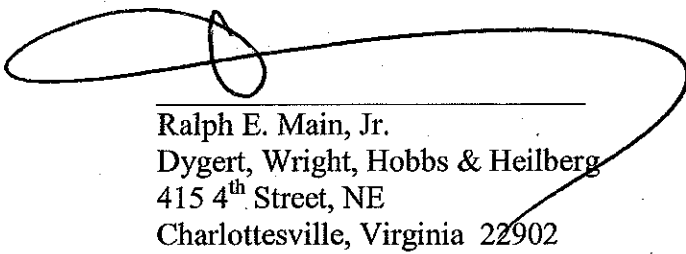
5. That Plaintiffs have such other and further relief as the nature of their case may require.

Respectfully Submitted,

FREDERICK W. PAYNE  
JOHN BOSLEY YELLOTT, JR.

EDWARD D. TAYLOE, II  
BETTY JANE FRANKLIN PHILLIPS  
EDWARD BERGEN FRY  
VIRGINIA C. AMISS  
STEFANIE MARSHALL  
CHARLES L. WEBER, JR.  
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ANTHONY M. GRIFFIN  
BRITTON FRANKLIN EARNEST, SR.  
THE MONUMENT FUND, INC.

By Counsel



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VSB # 30734  
Counsel for Plaintiffs

Elliott Harding  
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(434) 962-8465  
VSB # 90442  
Counsel for Plaintiffs

VERIFICATION

 (SEAL)  
FREDERICK W. PAYNE

STATE OF VIRGINIA AT LARGE

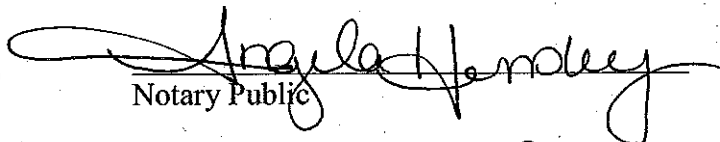
CITY/COUNTY OF Charlottesville, to-wit:

This day personally appeared before me, Frederick W. Payne, who is personally known to me, and who, under penalty of perjury, made oath that the allegations set forth in the foregoing amended complaint are, according to the best of his knowledge, information and belief, true and correct.

Subscribed and sworn to before me this 11<sup>th</sup> day of October, 2017.

My Commission Expires: 8/31/20

ANGELA MARIE HENSLEY  
NOTARY PUBLIC  
REG. #7688561  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES AUG. 31, 2020

  
Notary Public

Registration Number: 7688561

VERIFICATION

 (SEAL)  
JOHN BOSLEY YELLOTT, JR.

STATE OF VIRGINIA AT LARGE

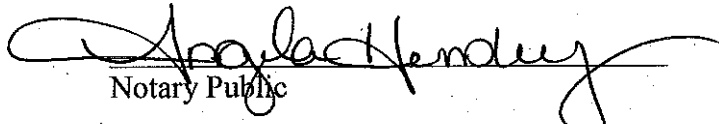
CITY/COUNTY OF Charlottesville, to-wit:

This day personally appeared before me, John Bosley Yellott, Jr., who is personally known to me, and who, under penalty of perjury, made oath that the allegations set forth in the foregoing amended complaint are, according to the best of his knowledge, information and belief, true and correct.

Subscribed and sworn to before me this 11<sup>th</sup> day of October, 2017.

My Commission Expires: 8/31/20

ANGELA MARIE HENSLEY  
NOTARY PUBLIC  
REG. #7688561  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES AUG. 31, 2020

  
Notary Public

Registration Number: 7688561

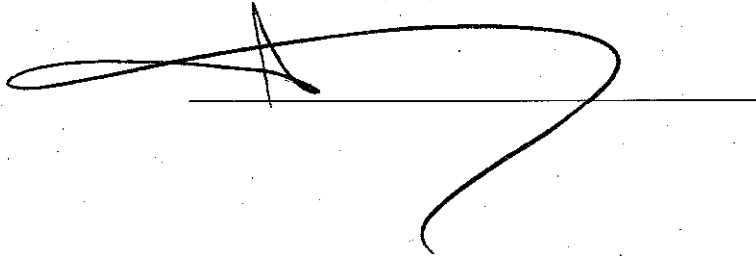
CERTIFICATE

I hereby certify that on October 11, 2017 true and accurate copies of the foregoing amended complaint, with Exhibits attached, was hand-delivered to the following counsel for Defendants:

S. Craig Brown, Esquire  
Charlottesville City Attorney  
City Hall  
605 East Main Street  
Charlottesville, Virginia 22902

and

Richard H. Milnor, Esquire  
Zunka, Milnor & Carter  
414 Park Street  
Charlottesville, Virginia 22902.



# **EXHIBIT**

**A**



And that the private sewer line on Grove Ave. be connected with the City sewer with as little delay as possible as the cess-pool that receives the sewage from said line is unsanitary.

Referred.  
Ordinance  
and  
Sewers.

The first of the above recommendations was referred to the Ordinance Committee, and the second to the Sewer Committee.

Police.

Report of the Chief of Police, A. L. Henderson, showed cash fines for January \$214. and cases sent to jail in default, \$90.50.

In re. Sec.  
311-112 of the  
City Code.  
Referred.

The Mayor, in transmitting an opinion from the City Attorney as to the legality of Sec. 311-1/2 of the City Code, known as the Segregation Ordinance, suggested that said section be repealed. The matter was referred to the Ordinance Committee.

Bill for  
Armory light.  
Tabled.

A bill for the electric current furnished the Armory by the C. & A. Ry. Co. for the benefit of the Albemarle Rifles was considered and tabled.

A communication from His Honor the Mayor:

February 14, 1918.

To the President and Members of the  
Board of Aldermen and Common Council:  
gentlemen:

In re.  
McIntire  
Gift of the  
Venable  
Property to  
the City as a  
public park.

It is with great pleasure I transmit to you the letter hereto attached. The magnitude of the gift proposed is an index to the bigness of the heart from which the idea originated. I feel sure you will accept the offer, and I trust that you and your successors may duly cherish this gift; and so manage that the park, which should be known as The McIntire Park, shall be a joy and pleasure for all future generations of our city.

Respectfully submitted,  
E. G. Haden, Mayor.

Letter of Mr. R. A. Watson, Attorney, for Paul G. McIntire:  
Charlottesville, Va., February 5, 1918.

Hon. E. G. Haden, Mayor,  
City.

Dear Sir:

I am directed by Mr. Paul G. McIntire to say that he will be glad to present to the City of Charlottesville, as a memorial to his parents, the property known as the "Venable Property" opposite the Post Office, for the purpose of establishing a park. This property embraces the square between 1st and 2nd and Jefferson and Market Streets.

Mr. McIntire will put the square in good condition and erect in the center thereof an equestrian statue of General Robert E. Lee, of which the City can feel justly proud. It will require about three years to complete this monument but other improvements can be made at an early date. Mr. H. N. Shradley, of New York, the noted sculptor, who was selected by the United States Government to erect the statue and monument to General Grant at Washington, now nearing completion, and which is said to be the handsomest memorial in America, has been awarded the commission to make the Lee statue.

The property will be given with the understanding that it will be used as a park and that no buildings will be erected thereon. The conveyance of the property will be made as soon as advised of the acceptance by the City of this offer.

Very truly yours,  
R. A. Watson.

The gift, as set out above, was accepted in a formal resolution as hereinafter set out.

The following resolutions were adopted, and will be found spread at length on the Ordinance Book:

Resolutions:  
Meade Property.

A Resolution in re. sale of the Meade Property to the C & O Ry. Co.

Venable Property.

A Resolution accepting the gift of the Venable property by Paul G. McIntire, as a memorial to his parents, and to be used as a public park.

Woman's College  
gift.

A Resolution pledging to the University of Virginia the sum of \$25,000. for the purpose of establishing and maintaining the higher education of women, as provided for in bills now pending in the Legislature; said sum to be obtained by an election by the voters of the City called for that purpose.

In re. C & O  
crossings.

A Resolution requesting the C. & O. Ry. Co. to install crossing bells and lights at First and Second Street crossings.

The meeting then adjourned.

*Eliezer Haden*  
Clerk.

*W. J. Sander Jr.*  
President.

# **EXHIBIT**

## **B**

192 - Ordinance

A RESOLUTION IN RE. SALE OF THE MEADE PROPERTY OF THE C. & O. RY. CO.

IN RE.  
sale of Meade  
property.

RESOLVED, By the Common Council of Charlottesville, The Board of Aldermen concurring, That the "Meade" property be offered to the C. & O. Ry. Co. to be used exclusively and permanently as a Y. M. C. A. for its employes, at the price of \$10,000, and the Mayor is hereby authorized to transmit this offer to the proper official of the said company, and to execute on behalf of the City the deed to said property, if the sale is made.

Presented and approved  
February 19, 1918.

E. H. Hudson  
Mayor.

Adopted by the Common Council Feb. 14, '18  
Ayes: Elliott, Gleason, Forrest, Souder,  
Twyman & Wingfield, Noes; none;  
Concurred in by Board of Aldermen  
Feb. 18, 1918: Ayes: Bolling, Harris  
and Walker.

E. J. Bassuthers  
City Clerk.

W. F. Souder Jr.  
President Common Council.

R. C. Walker  
President Board of Aldermen.

A RESOLUTION ACCEPTING THE GIFT OF THE VENABLE PROPERTY BY PAUL G. McINTIRE, AS A MEMORIAL TO HIS PARENTS, AND TO BE USED AS A PUBLIC PARK.

In re. gift to  
the City of  
the Venable  
property for  
public park.

RESOLVED, By the Common Council of Charlottesville, The Board of Aldermen Concurring, That WHEREAS Mr. Paul G. McIntire, through Mr. R. A. Watson, has notified the Mayor of his readiness to present to the City as a memorial to his parents, the real estate known as the "Venable Property", consisting of the square lying between Jefferson and Market and First and second Streets, North East, to be maintained and used as a public park, and of his purpose to beautify the park and erect in the center thereof an equestrian statue of our beloved hero, General Robert E. Lee

THEREFORE BE IT RESOLVED by the Common Council, the Board of Aldermen concurring, That for an on behalf of the City of Charlottesville, and all the citizens thereof, we do accept the offer of this generous and philanthropic gift, and that we do express to Mr. McIntire on behalf of the people, grateful appreciation of the gift and of this civic necessity which will afford pleasure and happiness and inspiration to those in all walks of life; and in this gift we recognize the vision and noble impulse which enables the donor to look beyond the dark chasm of War and with steady eye and clear vision behold the triumphant day, when, freed from the curse and blighting influence of war, the nations and the peoples of the earth shall return to their peaceful pursuits.

And the Mayor is directed to communicate to Mr. McIntire this resolution.

Presented and approved  
February 19, 1918.

E. H. Hudson  
Mayor.

Adopted by the Common Council Feb. 14, '18.  
Ayes: Elliott, Forrest, Gleason, Souder,  
Twyman and Wingfield; Noes; none.  
Concurred in by Board of Aldermen  
Feb. 18, 1918: Ayes: Bolling, Harris  
and Walker.

E. J. Bassuthers  
City Clerk.

W. F. Souder Jr.  
President Common Council.

R. C. Walker  
President Board of Aldermen.

A RESOLUTION PLEDGING THE UNIVERSITY OF VIRGINIA THE SUM OF \$25,000. FOR THE PURPOSE OF ESTABLISHING AND MAINTAINING THE HIGHER EDUCATION OF WOMEN, AS PROVIDED FOR IN BILLS NOW PENDING IN THE LEGISLATURE, SAID SUM TO BE OBTAINED BY AN ELECTION BY THE PEOPLE OF THE CITY FOR THE PURPOSE.

In re. gift to  
University for  
establishment  
Woman's College.

RESOLVED, By the Common Council of Charlottesville, the Board of Aldermen concurring, That, re-affirming the unanimous action of the Council on January 13, 1916, the sum of \$25,000. is pledged to the University of Virginia for the purpose of establishing and maintaining the higher education of women according to the provisions of the Senate Bill #230, or House Bill #194, said sum to be made available after the passage of said bill by the General Assembly and its approval by the Governor of Virginia, and to be obtained by calling an election to authorize the issue of bonds the proceeds derived from the sale of which shall be devoted to the purpose aforesaid.

Presented and approved  
February 19, 1918.

E. H. Hudson  
Mayor.

Adopted by the Common Council Feb. 14, '18:  
Ayes: Elliott, Forrest, Souder, Twyman and  
Wingfield (5); Noes, none.  
Concurred in by Board of Aldermen Feb.  
18, 1918. Ayes: Bolling, Harris & Walker.

E. J. Bassuthers  
City Clerk.

W. F. Souder Jr.  
President Common Council.

R. C. Walker

# **EXHIBIT**

**C**

WITNESS the following signature and seal, the day and year aforesaid.

J. E. Sprigg (SEAL)

STATE OF VIRGINIA,

County of Albemarle, to-wit:-

I, John S. Battle, a Notary Public in and for the County aforesaid, in the State of Virginia, do certify that J. E. Sprigg, whose name is signed to the writing above and hereto annexed, bearing date on the 19th day of July, 1918, has acknowledged the same before me in my County aforesaid.

My commission expires the 10 day of January, 1920.

Given under my hand this 20 day of July, 1918.

John S. Battle  
Notary Public.

In the Clerk's Office of the Corporation Court of the City of Charlottesville, Virginia,

On the 20th. day of July, 1918, the foregoing instrument of writing was presented and admitted to record, and together with the certificate of acknowledgment recorded in Deed Book No. 32, page 5.

Tests:-

C. E. Moran, Clerk.

\*\*\*\*\*

WHEREAS, William O. Watson purchased the property hereinafter described at the instance and request of Paul G. McIntire, who desires to erect thereon a statue of General Robert E. Lee and to present said property to the City of Charlottesville, Va. as a memorial to his parents, the late George M. McIntire and Catherine A. McIntire, said property to be used as a park.

Paul G. McIntire  
& W.O. Watson

To: Gift.

City of Charlottesville, Va.

AND WHEREAS, the said Paul G. McIntire has requested said William O. Watson to convey said property to said City of Charlottesville, as evidenced by his uniting in this deed.

Fee \$1.50  
Tax 25.00  
Trans 1.00  
paid \$27.50

NOW THEREFORE, This deed made this 14th day of June, 1918, between William O. Watson, of the first part, and City of Charlottesville, a municipal corporation, of the second part, and Paul G. McIntire of the third part.

WITNESSETH:

That for and in consideration of the premises and of \$10.00 cash in hand paid by the party of the second part to the party of the first part, the receipt whereof is heroby acknowledged, the said party of the first part hereby GRANTS, BARGAINS, SELLS AND CONVEYS unto the party of the second part, all that certain lot or parcel of land lying and situate on the South side of Jefferson Street in the City of Charlottesville, Va., and bounded on the North by said Jefferson Street, on the West by North First Street, on the South by Market Street and on the East by North Second Street, and being the same property in all respects, conveyed to the said William O. Watson by Charles S. Venable and wife, by deed dated 30th day of May 1917, recorded in the Clerk's Office of said City, D. B. 30, page 398. A reference being made to said deed for a more accurate description of said property.

This conveyance is made upon condition that the said property be held and used in perpetuity by said City as a public park, and that no buildings be erected thereon, but the authorities of said city shall at all times have the right and power to control, regulate and restrict the use of said prop-

erty.

Witness the following signatures and seals.

Paul G. McIntire (SEAL)  
W. O. Watson (SEAL)

STATE OF VIRGINIA,  
COUNTY OF ALBEMARLE, to-wit:

I, R. A. Watson, a Notary Public in and for the County aforesaid and State of Virginia, do certify that W. O. Watson, whose name is signed to the foregoing writing, bearing date the 14th day of June, 1918, has acknowledged the same before me in my County and State aforesaid.

Given under my hand this 2 day of July, 1918.

R. A. Watson  
Notary Public.

My commission expires 19 day of Feb. 1919.

STATE OF NEW YORK,  
COUNTY OF NEW YORK, to-wit:

I, N. A. Mullins, a Notary Public in and for the County aforesaid and State of New York, do certify that Paul G. McIntire, whose name is signed to the foregoing writing, bearing date the 14th day of June, 1918, has acknowledged the same before me in my County and State aforesaid.

Given under my hand and Notarial Seal this 26th day of June, 1918.

My commission expires 1st day of 1, 1919.

(SEAL) N. A. Mullins  
NOTARY PUBLIC.

In the Clerk's Office of the Corporation Court of the City of Charlottesville, Virginia,

On the 22nd. day of July, 1918, the foregoing instrument of writing was presented and admitted to record, and together with the certificate of acknowledgment recorded in Deed Book No. 32, page 7.

Tests:-  
C. E. Brown, Clerk.

\*\*\*\*\*

Ora E. Landes At a Circuit Court of Chancery continued and held for the County of Albemarle, Virginia, on Monday, July 22nd., 1918.

V. Decree Present:- Hon. John W. Fishburne, Judge.

Dewitt Landes LANDES, ORA E. Plaintiff.

v. LANDES, DE WITT, Defendant.

This cause came on this day to be heard upon the papers formerly read, and upon the evidence taken in open court and reduced to writing, and was argued by counsel.

Upon consideration whereof, and the Court being of opinion that the plaintiff, Ora E. Landes, is entitled to a divorce, doth adjudge, order and decree that the said parties to this suit be and they are hereby divorced a mensa et thoro and that henceforth the plaintiff and defendant shall live separate and apart from each other, and they are each hereby restrained from any interference with the other. And the Court doth further adjudge, order and decree that the said Ora E. Landes shall have, and she is hereby given, the

# **EXHIBIT**

**D**

State of Virginia

County of Albemarle, to-wit:-

I, W. F. Souder, Jr. a Notary Public for the County aforesaid, State of Virginia, do certify that M. R. Dottor, attorney for George Gilmer, H. A. Watson and Sadie B. Watson, whose names are signed to the foregoing writing, bearing date the 5th day of November, 1918, have and each has acknowledged the same before me in my County aforesaid.

My commission expires the 29 day of Jun, 1921.

Given under my hand this 21st day of November, 1918.

W. F. Souder, Jr. H. P.

In the Clerk's Office of the Corporation Court of the City of Charlottesville, Virginia,

On the 7th day of January, 1919, the foregoing instrument of writing was presented and admitted to record, and together with the certificate of acknowledgment and \$1.00 Int. Rev. stamps affixed, recorded in Deed Book No. 32, page 239.

Teste:-

C. C. Morrow, Clerk.

\*\*\*\*\*

W. O. Watson, Tr.

To Gift

City of Charlottesville

THIS DEED made this 24th day of December, 1918, between W. O. Watson, Trustee, of the first part and the City of Charlottesville, Virginia, a municipal corporation, of the second part;

WHEREAS, the property hereinafter described was conveyed to the said W. O. Watson, Trustee, with full power and authority in him to transfer, sell and convey same by a sale deed, without the usual que trust uniting therein;

AND WHEREAS, Paul G. McIntire, through whose beneficence said property was purchased to be presented to the city of Charlottesville, has requested that said property be conveyed to the said city and that it be known as "Jackson Park;"

NOW THEREFORE, THIS DEED WITNESSETH:-

That for and in consideration of \$10.00 cash in hand paid by the party of the second part to the party of the first part, the receipt whereof is hereby acknowledged, the said W. O. Watson, Trustee, doth hereby GRANT, BARGAIN, SELL and CONVEY unto the said city of Charlottesville, Virginia, all those certain lots or parcels of land situate on the west side of the Public Square of the city of Charlottesville and conveyed to the said W. O. Watson Trustee, by the following deeds:-

1st. All those four certain lots or parcels of land conveyed to the said Trustee by W. R. Burnley by deed dated the 14th day of September, 1918, recorded in the Clerk's Office of said city, D. B. 32, page 187.

2d. That certain tract or parcel of land conveyed to the said Trustee, by J. J. Ieterman and wife by deed dated the 11th day of September, 1918, and recorded in the Clerk's Office aforesaid, D. B. 32, page 188.

3d. That certain tract or parcel of land conveyed to the said Trustee by John West and wife by deed dated the 18th day of September, 1918, and recorded in the Clerk's Office aforesaid, D. B. 32, page 190.

Fee \$1.50  
Tax 8.50  
Trans. 7.00  
paid \$17.00

Delivered to me Jan. 12, 1919 for E. L. Hudson Mayor J. P. Deacon



4th. That certain lot or parcel of land conveyed to the said Trustee, by R. H. Wood, Special Commissioner, by deed dated the 14th day of December, 1918, and recorded in the Clerk's Office aforesaid, D. S. 32, page 215. A reference being made to all of said deeds for a more accurate description of the property hereby conveyed.

The property conveyed by this deed embraces all the property situate between Jefferson and High Streets and between Moxee and Fourth Streets in said city.

This conveyance is made, upon condition that said property be held and used in perpetuity by said city as a public park and that no buildings be erected thereon, but authorities of said city shall, at all times, have the right and power to control, regulate and restrict the use of said property.

WITNESS the following signature and seal.

W. O. Watson (SEAL)

State of Virginia

County of Albemarle, to-wit:-

I, Guy F. Via, a Notary Public for the County aforesaid, State of Virginia, do certify that W. O. Watson, Trustee, whose name is signed to the foregoing writing, bearing date the 24th day of December, 1918, has acknowledged the same before me in my County aforesaid.

My commission expires the 22 day of May, 1922

Given under my hand this 3 day of Jan, 1919.

(SEAL)

Guy F. Via N. P.

In the Clerk's Office of the Corporation Court of the City of Charlottesville, Virginia.

On the 7th. day of January, 1919, the foregoing instrument of writing was presented and admitted to record, and together with the certificate of acknowledgment recorded in Deed Book No. 32, page 240.

Tente:-

C. E. Moore, Clerk.

\*\*\*\*\*

NUMBER 93.

THIS DEED made this 28 day of July 1917 by and between the City of Charlottesville, Va., of the one part, and Phoebe Miner of the other part,

WITNESSETH

That for and in consideration of 20<sup>00</sup> Dollars to the said City paid, the receipt of which is hereby acknowledged, the said City of CHARLOTTESVILLE has this day given, granted, bargained and sold, and by these presents doth give grant, bargain and sell unto the said Phoebe Miner a certain 1/8 Section, No. in Division, Block, Oakwood Cemetery of said City, fronting N & S 9 feet, and running back E & W 19 feet, the said section being fully and explicitly numbered and described on plot of said Cemetery, which is in the office of the Mayor of said city, to have and to hold said 1/8 section unto the said Phoebe Miner heirs and assigns forever; but on the following conditions, viz.: Said 1/8 Section shall be used exclusively for the burial or interment of white persons.

Said 1/8 Section, its management and control shall be subject to any laws, ordinances or resolutions passed, or hereafter passed by the Council of said

Recd.

City of Charlottesville

To: Grave

Phoebe Miner

Fee \$1.50 paid.

*Delivered to said Phoebe Miner 12/24/19. Mr S. J. C. his holm*

# **EXHIBIT**

**E**



# **EXHIBIT**

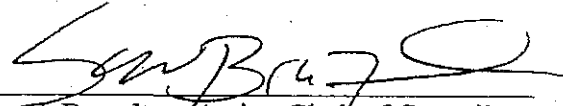
**F**

**RESOLUTION**  
**TO REMOVE THE STATUE OF ROBERT E. LEE FROM LEE PARK**

**BE IT RESOLVED** that the City of Charlottesville shall remove the statue of Robert E. Lee from the park currently known as Lee Park; and

**BE IT FURTHER RESOLVED**, that Council hereby directs staff to bring Council a range of recommended options for moving forward with decisions on destination and design within 60 days for Council consideration.

Approved by City Council  
February 6, 2017

  
Sarah Brazelton, Acting Clerk of Council

# **EXHIBIT**


# **G**

**RESOLUTION  
TO RE-NAME LEE PARK**

**BE IT RESOLVED** that the park currently known as Lee Park in the City of Charlottesville shall be renamed; and

**BE IT FURTHER RESOLVED** that City Council hereby directs staff to bring Council a range of recommended options, within 60 days for our consideration, for a new park name.

Approved by City Council  
February 6, 2017

  
Sarah Brazelton, Acting Clerk of Council

# EXHIBIT

## H



**RESOLUTION**  
**BLUE RIBBON COMMISSION PUBLIC SPACES RECOMMENDATIONS**

**WHEREAS** to transform the City of Charlottesville's core public spaces in keeping with the recommendations of the Blue Ribbon Commission on Race, Memorials and Public Spaces (BRC) such that a more complete history of race is told and the City's commitment to truth, freedom and equity is affirmed; and

**WHEREAS** the Charlottesville City Council made a clear commitment to reveal and tell the full story of race through our City's public spaces when it established the BRC in August 2016; and

**WHEREAS** the BRC's Final Report acknowledged that far too often our public spaces and histories have ignored, silenced or suppressed African American history, as well as the legacy of white supremacy and the unimaginable harms done under that cause; and

**WHEREAS** the public spaces of Charlottesville's Historic North Downtown and Court Square Districts contain the \*Robert E. Lee statue in Lee Park, the Stonewall Jackson statue in Jackson Park, the slave auction block and the Reconstruction era's Freedman's Bureau;

**BE IT RESOLVED** that the City Council of Charlottesville directs staff to:

- In consultation with community and stakeholder groups chosen at the discretion of the City Manager such as the Jefferson School African American Heritage Center, the PLACE Design Task Force, the Human Rights Commission and the Historic Resources Commission to write and issue (within 90 days of the adoption of this Resolution) a Request for Proposal (RFP) for professional design services to create a Master Plan for the Historic North Downtown and Court Square Districts that would;
  - Redesign and transform Jackson Park through the addition of a new memorial to Charlottesville's enslaved population while retaining its ability to function as a community gathering space,
  - Redesign Lee Park, independent of the Lee statue while retaining its ability to function as a community gathering space,
  - Replace the current plaque at the slave auction block with one that is legible,
  - Identify and acknowledge the site of the Freedman's Bureau.

**BE IT FURTHER RESOLVED** that all submissions through the RFP process shall:

- Provide at least two preliminary Master Plan options of the above inclusive of new site plans, elevations and sections, 3D visualizations, and specifications for signage, commemorative plaques, lighting and landscape elements as appropriate throughout this historic precinct so as to create a coherent narrative.
- Engage the community at large in a manner that ensures that those underrepresented communities are fulsomely included in the process, as well as the Board of Architectural Review (BAR) the Historic Resources Commission, the Human Rights Commission, the PLACE Design Task Force, Planning Commission and City Council.
- Provide preliminary cost estimates on all options.
- Establish a timeline to be completed within 12 months of contract signing.
- Allow for the development, design and implementation of a final Master Plan as adopted by City Council, with a projected estimated budget not to exceed \$1,000,000.00\*\*

**BE IT FURTHER RESOLVED**, that the City Council of Charlottesville, Virginia, supports re-naming Jackson Park and hereby directs staff to bring Council a range of options on how and what to rename the park within 60 days of the adoption of this Resolution for its consideration.

\* NOTE: The Robert E. Lee statue will be relocated as per a 3:2 majority vote by City Council on February 6, 2017.

\*\*NOTE: Should the fabrication and installation of a new memorial for Charlottesville's enslaved population exceed the established budget, additional grants and private funds shall be raised to supplement the City's contribution.

Approved by Council  
February 6, 2017

  
Acting Clerk of Council

# EXHIBIT

## I

Prepared by Facilities Development, Public Works Department, City of Charlottesville

## JACKSON AND LEE MEMORIAL MONUMENTS

The bronze statues are made of multiple castings, brazed together and anchored to cap slabs on the monument base structures with anchor bolts. The bronze work should be able to be removed for separate handling.

The monument bases are divided into multiple stone blocks that, once positioned and leveled, were grouted together with a Portland cement grout. The grout is in extremely good condition. The width of the seams is an impressive 3/16 inch wide, making removal problematic without stone damage.

The Jackson monument has two, multiple section (6), base layers, the first resting on a concrete foundation slab. The body of the monument is comprised of four stones, two curved ends and two flat sides. Although concealed, we suspect that the body was filled with Portland grout once the individual stones were set and leveled. Steel or iron pins could also have been used to assist in carving and installation. The Lee monument is similar but with only one, taller base layer.

Having no previous experience in performing this type of rigging, Facilities Development reached out to three companies with recognized achievements in this genre of moving. During our conversations, immediate concerns for relocating the monuments were identified:

1. Without knowing the exact installation of the stone base, in order to preserve its integrity and to minimize the potential for damage to the individual stones, our advisors recommended the stone bases and concrete foundation slabs be considered monolithic and moved as one unit.
2. Assuming the foundation slab is 24 inches thick, a minimal dimension for what appears to be a mass pour, the total height of the monument, excluding the bronze work, should be approximately 10 feet, well within the nominal clearance for utilities (Lee park clearance requires further evaluation). The move should not require attendance by the various utility service providers along the travel path.
3. Even with the bronze work removed, the weight of the stone base precludes hauling by normal road equipment. Transportation speeds of the custom lorry will be at a walking pace (approximately 3 mph). Navigation of turns will be considerable slower. Steep grades will need to be avoided, and normal traffic flow will be impacted.
4. Impact on the sites will be significant. The ground around the monuments will need to be excavated approximately 10 feet on each side of the base and two feet below the monument

foundation (30'x40'x4' estimate) in order to provide room for the lift gantry and to insert steel beams under the foundation. In addition, a construction road, 12' wide with an 8" stone base, will need to be built in each park, sufficient to carry the weight of the monument and specially designed lorry, from an adjacent street and level with the monument excavation. (While the cost estimate includes rebuilding the brick retaining wall and reestablishing grade at the excavations, it does not include other restoration or improvements.)

5. Lee Park presents additional challenges because of overhead utility service, extremely narrow streets at its only grade level point of access, at East Jefferson and 2nd Street, the skewed alignment between the monument and access road and a plethora of mature trees along the preferred access.
6. Facilities Development initially envisioned two relocation scenarios for the monuments, relocation within the City limits and delivery to a regional Civil War site. Due to the weight of the bases, the regional relocation option would require further research and analysis to determine the practicality of such a move and its cost.

Facilities Development has generated line-item estimates to relocate each of the monuments, based upon the particular site conditions in each park.

- The estimate for relocating the Jackson monument is \$370K.
- The estimate for relocating the Lee monument is \$330K.

NOTE: Facilities Development was advised the cost for raising and transporting each.

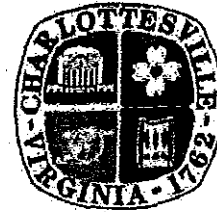
# EXHIBIT

J

# CITY OF CHARLOTTESVILLE

"A World Class City"

Office of The City Attorney  
City Hall  
P.O. Box 911 • 605 East Main Street  
Charlottesville, Virginia 22902  
Telephone: (434) 970-3131  
Fax: (434) 970-3022  
www.charlottesville.org



February 15, 2017

Fred D. Taylor  
Bush & Taylor, P.C.  
160 West Washington Street  
Suffolk, VA 23434

Re: Robert E. Lee Statue

Dear Mr. Taylor:

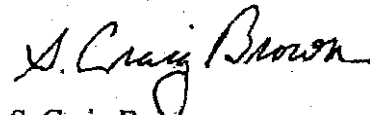
Thank you for your letter of February 7, 2017, in which you request that I, as Charlottesville City Attorney, immediately commence an action pursuant to Virginia Code sec. 15.2-1812.1 (A) (1). That statute provides that the attorney for the locality may commence an action for the recovery of damages resulting from a violation or encroachment upon a publicly owned monument, marker or memorial located in the locality and designated in Virginia Code sec. 15.2-1812 and sec. 18.2-137. Even if we assume, for the sake of argument, that the statue of Robert E. Lee located in Lee Park in Charlottesville is protected by those Code sections, I must decline your request for the following reasons.

First, the statue has not been disturbed, interfered with, violated or encroached upon. As of this writing it remains undisturbed in its usual location in Lee Park. My authority pursuant to section 15.2-1812.1 is to initiate an action for the recovery of damages "as necessary for the purposes of rebuilding, repairing, preserving and restoring such memorials or monuments". I will not institute an action for damages when there have been none.

Second, your letter references the February 6, 2017 resolution adopted by the Charlottesville City Council that states that the City will remove the statue of Robert E. Lee from Lee Park. As City Attorney, my professional obligation is to represent the City as an organization, acting through its duly authorized constituents – the City Council. See Virginia Rules of Professional Conduct Rule 1.13 (a) and Note (1). While you do not identify any

potential defendants in the lawsuit that you ask me to file, I must assume that you envision me taking adverse action against my own clients. I cannot do that consistent with my responsibility to represent the City of Charlottesville.

Sincerely,

A handwritten signature in cursive script that reads "S. Craig Brown".

S. Craig Brown  
City Attorney

cc: City Council  
Maurice Jones