

VIRGINIA: IN THE CIRCUIT COURT OF THE CITY OF CHARLOTTESVILLE

FREDERICK W. PAYNE, et al.  
Plaintiffs,

v.

Case No. CL 17 - 145

CITY OF CHARLOTTESVILLE, VIRGINIA, et al.  
Defendants

**Plaintiffs' Deposition Notice: City of Charlottesville and City Council**

The Plaintiffs, by Counsel, notice the deposition of both, or each of, the public corporation Defendant City of Charlottesville, and its governing body a governmental agency Defendant Charlottesville City Council, whether their designee(s) be the same or different persons, at the offices of Cavalier Reporting, 415 4th Street NE, Suite 4 Charlottesville Virginia 22902, on November 14, 2018, at 9 o'clock A.M., and in accord with Va. Sup. Ct. Rule 4:5 (b) (6) designate "with reasonable particularity the matters on which examination is requested" as follows:

(1) The citywide circular broadcast to the City email list on March 16, 2016 by then Mayor Signer calling for consideration of removal of Charlottesville's "Confederate Memorials;" for a "full legal review;" and proposing a creation of a "Blue Ribbon Commission on Confederate Memorials;" what previous City or City Council participation, action, or vote on the circular had occurred, and what legal review resulted.

(2) The City and City Council's reaction to the March 24, 2016 letter Jock Yellott (later Plaintiff) sent to all City Councilors, City Manager, and the City Attorney stating that Va. Code §15.2-1812 prohibits removal of Confederate monuments, and in particular whether the legal review then Mayor Signer had proposed in March 2016 circular responded to it.

(3) The circumstances surrounding the City through its City Council, creating in May 2016 the "Blue Ribbon Commission on Race, Memorials, and Public Spaces" ["Commission"];

City deposition designation

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FILED  
10/11/18 9:12:00pm  
(Date & Time)  
City of Charlottesville  
Circuit Court Clerk's Office  
Lezelle A. Dugger, Clerk  
By *J. Williams*  
Deputy Clerk

why it was named that, why it was tasked with considering removal of “Confederate monuments,” and how members of the Commission were chosen.

(4) Whether the City or City Council was aware of the September 28, 2016 memo Deputy City Attorney delivered to the Commission, with copies for the general public, saying that the law on monument removal is “unsettled;” whether the legal advice originated with Signer’s requested legal review or Yellott’s letter.

(5) The City’s and City Council’s reaction to the Commission’s tendering its report to City Council in December 2016 recommending *inter alia* that the Confederate monument of General Jackson remain in Jackson park; offering the option of keeping the Confederate monument of General Robert E. Lee in Lee park or moving it to McIntire park, but in either event keeping both monuments in the City and explaining them better; and why the City and City Council later ignored the recommendations.

(6) How much money the City through its City Council budgeted for carrying out Commission recommendations, including the possibility of moving the Confederate General Lee monument to McIntire park.

(7) Whether and how the City responded to Councilor Bellamy’s request reflected in the minutes of the January 3, 2017 meeting, for an Attorney General opinion on whether “it was in our ability legally to move the Lee or Jackson statue.” The minutes indicate “Council said they would like to see this their next agenda, with a draft opinion submitted by the City’s Attorney.” Whether a draft opinion prepared and if so, why was there no request for an Attorney General opinion.

(8) Why the City Council resolution on removing the monument of Confederate General Robert E. Lee was introduced at a City Council meeting January 17, 2017 without prior notice to the public or to other councilors, and the reasons for the repeated initial split 2-2 votes (Councilor Fenwick abstaining); what was Mayor Signer’s proposal for “a new

memorial” to go in Lee park, “that exceeds in visual and emotional power the current memorial.”

(9) Why, two weeks later February 6, 2017, City Council re-voted a resolution 3-2 to “remove” the monument to Confederate General Robert E. Lee (Signer and Galvin voting nay); by whom and when this resolution was first brought to the attention of the City and City Council, why the Councilors voted on the resolution without obtaining legal advice; and any discussion not reflected in the minutes on the separate resolution to rename and transform both Lee and Jackson parks (all Councilors voting in favor).

(10) Whether City Council set aside \$1 million for the redesign of the two parks and \$500,000 to support the Blue Ribbon Commission’s recommendations. How much money in total has the City budgeted for Confederate monument removal, and on permanently covering both monuments with tarps; how much of that has been appropriated, from which city accounts, how much spent, and what was it spent on?

(11) What was the City and City Council’s reaction to Judge Moore’s May 2, 2017 injunction prohibiting removal of the Confederate Monument of General Robert E. Lee; and whether there was discussion by City employees or by City Councilors of means of circumventing the injunction, either then, or subsequently in response to news reports of destruction of monuments in Memphis TN and Durham NC.

(12) Whether the City, or City Council, has information regarding the repeated vandalism with paint of the Confederate monument of General Robert E. Lee in the summer of 2017, for which Black Lives Matter activists have claimed credit.

(13) Why in July 2017 the City removed the Civil War Trails sign in front of the Lee Monument which described the monument as among those “memorializing those who fought for the Confederate cause.”

(14) Why during its City Council meeting of August 21-22, 2017 the City Council voted permanently to cover both the Lee and Jackson Confederate monuments with tarps, and why once again the City Council acted without seeking legal advice, even after then City Attorney Craig Brown had said on the dais it was the first he had heard of the idea of covering monuments and that he would require time to prepare advice on its legality; why the City directed the City Manager to request from the BAR approval of removing both Confederate monuments even though there was already in place an injunction against removing Lee, and whether that request was carried out; and why the City Council voted to remove the Jackson monument contrary to the December 2016 recommendation of the Commission, and contrary to its own previous votes in February 2017.

(15) Why in September 2017 the City and City Council voted to erect no trespassing signs and orange fencing around the two Confederate monuments to protect the tarps, how often the tarps have been removed, and what the cost has been of the tarps' repeated replacement.

(16) Whether the city's RFP for parks transformation included Confederate monument removal, permanently concealing or veiling monuments with covers or other measures to obscure or desecrate the monuments, why the RFP was amended to exclude the City and City Council's plan for a new fence, and what that plan was or is.

(17) Whether City Attorney Craig Brown's departure announced in December 2018 has to do with the City or City Council failing to wait for, or ignoring, Mr. Brown's advice as to removal of the Confederate monuments of Lee and Jackson.

(18) The removal of the tarp coverings from the Confederate monuments in February 2018, and whether any action or vote by City Councilors preceded the removal.

(19) Which city employees and what percentage of their salaried time was expended on carrying out the actions(s) referenced within the City Council resolutions and other actions regarding the illegal endeavor to remove, and then to conceal, the Confederate monuments of General Robert E Lee and "Stonewall" Jackson.

(20) To authenticate, and to inquire about official public records available from the City's records, and websites, including exhibits filed with the Complaint as amended, and records of City actions and resolutions adduced as evidence at previous hearings on the temporary injunction including City records introduced during the testimony of plaintiff Lloyd Smith.

Respectfully submitted:

(date)

October 11, 2018

Ralph E. Main, Jr.  
Dygert, Wright, Hobbs & Heilberg  
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Counsel for Plaintiffs

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VSB #30734  
Counsel for Plaintiffs

#### CERTIFICATE OF SERVICE

I certify that I caused a true and exact copy of the foregoing Plaintiffs' Deposition Notice: City of Charlottesville and City Council, to be hand delivered to the offices of Lisa Robertson, Esq., Charlottesville Deputy City Attorney, at her office address of 605 East Main Street, Charlottesville, Virginia 22902 and to the office of Richard Milnor, Esquire, at Zunka, Milnor & Carter, LTD, Counsel for Defendants, at his office address of 414 Park Street, Charlottesville, and by email to William O'Reilly, Esq., Jones Day, 51 Louisiana Ave. N.W. Washington DC 20001, at his email address of <woreilly@jonesday.com> and in addition by first class mail, postage prepaid to William O'Reilly, Esq., Jones Day, 51 Louisiana Ave. N.W. Washington DC 20001, all of the above being Counsel for the various Defendants, this 11<sup>th</sup> day of October 2018.

Ralph E. Main, Jr., VSB # 13320