

Minutes of Courthouse Grounds & Facilities Committee

April 24th, 2012

Present: Armstrong, Fox, Good, Houston, Liggett, Lynd, Mileo, Payne, Saia

Absent: Curtis, Lorrige, Mann, Phillips

Staff present:

Alice Alkire, Assistant to the Circuit Court Judges

Bob Chirles, Grounds & Facilities Manager

Chris Kenney, County Horticulturalist

Gale Waldron, Art Curator

Captain Chuck Wyant, Courts Security Commander, Sheriff's Office

Mimi Greene, Staff Liaison to the Committee

Meeting was called to order at 5:04 pm by Clint Good, Committee Chair.

Motion: John Mileo – to approve the minutes from the March 27th meeting.

Second: Roy

For: 9

Against: 0

New Business:

1. Application for display - Rick Wingrove - American Atheists, Capital Area

Mr. Wingrove addressed the Committee. He stated his organization's belief that the Courthouse Grounds & Facilities Committee was formed to "rubber-stamp" the BOS' desire to keep Christian displays and exclude others. He cited several Supreme Court decisions regarding freedom of speech and the endorsement of organized religion, such as *Allegheny Co. v. ACLU* and *Review Board v. Pannett Co.* where the First Amendment advocates prevailed. He stated that should Loudoun Co. not allow his group's display while allowing other religious displays, his group will sue the County, citing the above case law, and seek damages in the neighborhood of \$2 million dollars. He stated that he was not "making a threat", but warned that the County was about to "burn its fingers". He advocates ending all displays on

the Courthouse Grounds and for religious groups to put their displays on their own property.

Clint pointed out to Mr. Wingrove that his application was for a banner and that there was currently a moratorium on all displays. John Mileo stated that this was a matter of public record.

2. Application for event – Bluemont Concert Series

Milt Herd, Chairman of the Board of Directors, spoke on behalf of BCC. He stated that there would be five Sunday concerts during the summer season. He said that while the BCC had appreciated the kindness of the George C. Marshall Foundation in allowing the use of Dodona Manor during the Courts construction, they would appreciate being allowed to return to their original location, the Courthouse lawn. He described the concerts on the Courthouse lawn as a “cultural treasure”. He understood that there were technical concerns such as compaction of soil around the trees but pledged that his group would work with County staff to mitigate those concerns. Regarding police coverage, he stated that BCC was working with the Town. As the concert season is already in its planning stages, the BCC would appreciate a decision by the Committee a.s.a.p.

Clint asked if the Committee members had any questions for Mr. Herd. Bob Lynd asked about police coverage. John Mileo asked if there were any noise concerns. Mr. Herd commented that the only loud noise came from the motorcycles coming and going across the street. (He was referring to Payne’s Biker Bar.) John Saia asked if there had been soil compaction problems in the past. Peter Dunning of BCC stated that during the last two summers the concerts were held there, there were concerns about the tree roots. To alleviate this, BCC had invested in a “fluffer” to loosen grass and soil after concerts. Roy asked about the number of people attending the concerts. Mr. Dunning stated that the number varied from 150-400, depending on the artist(s) performing. Roy also expressed concern about soil compaction and Charlie suggesting cordoning off the “high-risk areas”.

Clint asked if the BCC was a 501-3C charitable organization and Mr. Herd and Mr. Dunning assured him that it was. Suzanne asked if there was music after 11pm and Mr. Dunning stated that the performance runs from 7-10 pm with staff clean-up afterwards. Alice asked if the BCC would reimburse the County should damage occur and John Mileo asked if they had a certificate of insurance. Mr. Herd answered “yes” to both questions. Jeremy asked if

there was a fee charged to attend the performances and Mr. Dunning stated that it was referred to as a “requested admission fee”, as people cannot be prevented from entering the grounds as they are public property. Mr. Herd stated that the requested fee was really a donation. Clint thanked them for their comments and asked staff members for their comments.

Bob Chirles stated that there was no construction scheduled over the summer. Chris Kenney, County Horticulturalist, said that the state of the grounds was tenuous due to lack of resources and no crew to do the necessary work. She stated that the weight per square foot of the human foot was more damaging to the soil than the weight of an automobile. Clint asked if there was the potential for damage beyond repair and Chris stated that there was, keeping in mind the current level of resources and the more than seventy County sites she was responsible for maintaining. Bob Chirles stated that he misspoke earlier and that there was a project planned over the summer to replace knee walls at the Old Courthouse. Clint asked if that could be completed by July 1st. John S. asked if the soil was amended after the last round of construction and Chris stated that it was done several weeks ago but the trees and lawn must be treated differently. She pointed out the trees are older now and less tolerant. Clint pointed out that the BCC used the lawn for 29 years and asked what was the pleasure of the Committee.

Discussion ensued among the members about the pros and cons of having the BCC return. Gwen mentioned the music and it being a pro-family event and John S., John M., Charlie, and Suzanne agreed while Jeremy and Roy voiced reservations.

Motion: Charlie – allow the BCC to return to the Courthouse lawn

Second: Suzanne

Friendly amendment: Clint – BCC must work with Town on security and County Horticulturalist to minimize damage to lawn/trees.

For: 7

Against: 2 – Jeremy, Roy

3. Application for event – Town of Leesburg – Memorial Day Ceremony

Clint asked for background. Jeremy stated that there would be a guest speaker and a laying of wreaths at the war memorials. The event would last about an hour and that they expected between 150-200 people and that there

would be special seating provided for veterans. John M. asked if there would be dignitaries attending and Jeremy stated that the BOS, Town Council, State Delegation ,Congressman Wolf, and Senators Warner and Webb were always invited, along with local decorated veterans. John M. asked if an invocation was given and Jeremy stated that local clergy were asked to give it on a rotating basis.

Motion: Roy – approve the Town of Leesburg Memorial Day application

Second: John M.

For: 8

Against: 0

Abstain: 1 - Jeremy (as a Town of Leesburg employee)

4. Expenditure of remaining art funds

Charlie gave some background information regarding the appointment of the Art Curator and introduced Gale Waldron to the Committee. He then provided a hand-out showing pictures of the art work chosen for the Courthouse. He pointed out that the prices listed for each piece reflected a 10-15% discount obtained by Gale from the artists. He stated that it was important for the Committee to be satisfied with the choices and elicited their opinions on them.

Suzanne expressed a preference for the photographs and felt that the art work chosen was repetitive. John S. agreed. Roy and Jeremy expressed their approval of the paintings. Clint felt that the concept of repeating elements was desirable and applauded what Gale had chosen. Charlie felt the landscapes chosen were representative of Loudoun County west of the power line. John M. thought the Lancto works were too similar and Gale stated that they had flexibility with the artists and works could be switched out. Bob Lynd expressed his approval of both the artwork and photographs. Alice commended Gale on her choices and offered that the comments from the public on the art already on display were very positive.

Motion: Charlie – approve the artwork/photographs chosen by the Curator, with the provision that the smaller Lancto painting be replaced by something that varies more from the larger Lancto.

Second: Bob L.

For: 9

Against: 1 (Suzanne)

Roy pointed out that there will still be \$5,000 remaining in the art fund after the purchase and wondered what should be done with that money. Charlie pointed out that the Circuit Court Clerk's Office was in need of artwork. He proposed that Gale come back to the Committee with a proposal for art for that office.

Motion: Charlie – recommend Art Curator present proposal to Committee on the purchase of artwork for the Circuit Court Clerk's Office.

Second: Clint

For: 9

Against: 0

Old business:

1. Proposed holiday display

Clint initiated discussion of the specifics of the proposed holiday display. He stated that he spoke before the Finance/Government Services & Operations Committee and that they are pressing for specifics regarding the proposed display. He then turned the floor over to John M. who spoke on his views regarding the holiday display.

John stated that he felt the Committee had the obligation to ensure that the proposed display not result in the "circus" of the holiday displays in 2010 and 2011. He felt that many of the displays were offensive and cast Loudoun County in a negative light in the media. He pointed out that Christmas is recognized as a federal holiday and a state and local holiday. He stated that at his request, the Leesburg Town Council agreed to call the holiday tree a Christmas tree, but refused to call the holiday parade a Christmas parade. Instead, they changed the name to the "Christmas & Holiday Parade." He felt that the County should limit its display to a Christmas theme, to include a crèche (with a Baby Jesus, Mary, Joseph, and three farm animals), a Santa with a sack of toys, a 10-12' Christmas tree with secular ornaments, and wreaths/greenery on the iron fence and gates. He also stated that a menorah should be excluded because Hanukah is not a federal holiday. John also noted that there was another U.S. Supreme Court decision that Mr. Wingrove failed to cite, [Lynch v. Donnelly, 465 U.S. 668] which ruled in favor of the inclusion of a crèche as part of an overall Christmas display.

Clint reminded the group that he had asked that they all come to the meeting with specific ideas on the display. Roy thought the same components should be included as those mentioned by John M. Charlie thought they should try to “mirror” the holiday display on the national Mall. Bob mentioned that the case law on the subject was “all over the place” and that the Attorney General had ruled that overtly Christian symbols must be balanced with secular. Clint stated that it was not the committee’s responsibility to render legal opinions. He also expressed his desire that the Committee be in agreement on the theme of the display. John S. mentioned the possibility of including a menorah without the Star of David. Clint stated that allowing a menorah “opens the door” for all other groups who want displays. Bob L. recommended sticking to the Attorney General’s opinion. Clint mentioned that he had discussed the issue with Mike Farris, a noted constitutional lawyer, and Mr. Farris has recommended eliminating the menorah. Clint asked the Committee members to examine the spreadsheet provided by Charlie listing the possible components of the display and decide what components they wanted to include. All agreed on the inclusion of a tree and crèche, but members differed on the inclusion of a menorah. The possibility of a banner along the fence with a holiday message was mentioned but Chuck pointed out that County regulations prohibit hanging anything on the fence. Discussion then ensued on including a Santa or a snowman. John M. asked about the possibility of lights on a tree and Chuck stated that the electrical outlets on the lawn were limited. Clint stated that he would discuss the inclusion of a menorah with the County Attorney before the next meeting. Clint reminded the Committee that there would be an additional meeting on May 8th, specifically to finalize the holiday display proposal.

John M. asked if the Courthouse lobby dedication was still scheduled for May 1st and Alice stated that it had been postponed until further notice. John S. thanked Roy, John M., and Charlie for their hard work.

Motion: Adjourn – Roy

Second: John M.

For: 9

Against: 0

The meeting was adjourned at 6:47 p.m.

Respectfully submitted,

Mimi Greene, Staff Liaison

