



OFFICE OF THE CITY MANAGER  
VISION FIRST

July 10, 2020

Mr. Casey Smith, County Manager  
Davidson County  
PO Box 1067  
Lexington, NC 27293-1067

Dear Mr. Smith,

On June 17, 2020, Mayor Newell Clark initiated a Zoom conference call with NC House Representative Larry Potts, Davidson County Chairwoman Karen Watford, County Manager Casey Smith, City Manager Terra Greene, County Attorney Chuck Frye, Davidson County Sheriff Richie Simmons, and Lexington Police Chief J. Mark Sink. The nature of this call was to convey concerns citizens had regarding the Confederate Monument located on Davidson County property in Uptown Lexington, NC and explore solutions.

On June 24, 2020, City officials worked collaboratively with County officials to establish a meeting between select County and City elected officials and management set for Thursday, June 25, 2020 at 10:00 am, with the intention to discuss a solution to the Confederate Monument located on Davidson County property in the heart of Uptown Lexington, NC. On the evening of June 24, 2020 sometime just before 8:00 pm, I received a phone call from County Manager Casey Smith notifying our organization that County Commissioners would not attend the meeting. I immediately notified Mayor Newell Clark that Davidson County would not meet with City officials regarding the Confederate Monument.

On June 30, 2020, City officials were notified via email that Davidson County Manager Casey Smith had authorized 'Public Use of Davidson County Property' to Melisia Prout from 9:00 am to 10:00 pm on the County owned squares at the intersection of Main Street and Center Street in Lexington, NC. Typical protocol is for County officials to consult with City officials on a permitted use of this property in Uptown Lexington. In this case, there was no consultation whatsoever with the City of Lexington before County officials authorized the demonstrations. It should be noted the City of Lexington is not issuing permitted events and activity, in light of Governor's Executive Orders.

Police Chief J. Mark Sink has been in routine contact with Davidson County Sheriff Richie Simmons on the nature and escalation of the threat to public safety because of the unsafe and dangerous conditions surrounding the Confederate Monument on Davidson County owned property in Uptown Lexington, NC.

On July 1, 2020, I authorized Police Chief J. Mark Sink, head law enforcement officer for Lexington Police Department, to contact County Manager Casey Smith and go on record notifying



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of the seriousness of a public safety matter that involves Davidson County owned property at the intersection of Main Street and Center Street in Lexington, NC.

On July 1, 2020, Police Chief J. Mark Sink facilitated a meeting on the seriousness (including images reflecting the nature) of the public safety threat. This meeting included law enforcement representatives from the City of Lexington and Davidson County.

On July 2, 2020 via email, I delivered official notification to Davidson County officials that the Confederate Monument located on Davidson County property in the heart of Uptown Lexington poses a threat to public safety, which was based on public safety briefings provided from Lexington Police Chief to me as City Manager for Lexington, NC. In that correspondence, I requested Davidson County officials take immediate action as authorized under NCGS 100-2.1(c)(3) to remove the Confederate Monument.

Effective July 2, 2020, Davidson County Sheriff Richie Simmons began dedicating law enforcement manpower (at his discretion), in an effort to offer some assistance to Lexington Police Department towards the public safety threat surrounding the Confederate Monument in Uptown Lexington.

On July 7, 2020, I notified County Manager Casey Smith that Police Chief J. Mark Sink and I would be in attendance at the Davidson County Commissioner's meeting to be held Thursday, July 9, 2020.

On July 8, 2020 via email, I copied County Manager Casey Smith regarding an appeal to leadership and the seriousness of the state of affairs again. That email correspondence conveyed due to the need for increased presence, Lexington Police Department's overtime is approaching \$50,000 since June 1<sup>st</sup>. I also shared that for comparison in recent years, an entire budget year of overtime has averaged approximately \$180,000. Detailed records to maintain peace and order around the Confederate Monument in Uptown Lexington can be made available upon request.

On July 9, 2020 at the Davidson County Commissioner's meeting, I spoke during public address on behalf of the seriousness of the public safety threat surrounding the Confederate Monument on Davidson County owned property in Uptown Lexington. In summary, my commentary included appealing for the safety of the citizens of Davidson County, advocating for the business community that is struggling to recover from COVID-19 pandemic already, how the lack of business patrons affects much needed sales tax dollars to sustain city and county services amidst falling revenues during a recession, and the extreme effect it is having on workload and wellbeing of Lexington Police Department officers, as well as the cost burden on taxpayers of exorbitant law enforcement overtime. County Manager Casey Smith provided a written statement at the end of public address acknowledging the receipt of the City of Lexington's official notification on July 2, 2020 and suggested the City of Lexington enact a curfew not unlike initial stages of COVID-19 pandemic.



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My commentary and the County Manager's written statement at the July 9, 2020 Davidson County Commissioner's meeting can be viewed at <https://www.youtube.com/watch?v=vsYvO0oYy18&feature=youtu.be>.

The polarizing intensity, dangerous rhetoric, volume of activity, and frequency of notifications directly to City officials (or indirectly monitored) regarding ongoing demonstrations is escalating at alarming rates; all of which pose a dangerous threat to public safety.

A curfew is not a viable solution for this matter. Instituting a curfew in Lexington, NC is impractical, causes other undue consequences and hardships on residents and businesses. A curfew is not a sustainable solution to this public safety threat and nuisance on property owned by Davidson County at the intersection Main Street and Center Street in Lexington, NC.

I respectfully, but unequivocally, request that Davidson County take **immediate action as authorized under 100-2.1(c)(3) to remove the Confederate Monument to restore order and protect the safety** of Davidson County residents and the business community in Lexington, NC.

Sincerely,

Terra A. Greene  
City Manager

cc: Lexington Mayor Newell Clark  
Lexington City Council  
Lexington Attorney Stephen Holton  
Lexington Police Chief Mark Sink  
Davidson County Board of Commissioners

**City of Lexington, North Carolina  
City Manager's Office  
28 West Center Street, Lexington, Carolina 27292**

**Acknowledgement of Receipt and Proof of Delivery**

**To:**

Davidson County Government  
913 N. Greensboro Street, Suite 404  
Lexington, North Carolina 27292

**Date of Delivery:** Friday, July 24, 2020


**Time of Delivery:** 02 : 45 a.m. (p.m.)

**Method of Delivery:** In-person, hand-delivered

**Description of Materials Delivered:** Letter concerning the Confederate Statue Located on the Southeastern Quadrant of the Uptown Square, Lexington, North Carolina.

The undersigned individual hereby acknowledges on behalf of Davidson County the actual receipt and delivery of the aforementioned material. Further, acknowledgment of delivery includes that the material will be provided to appropriate parties.

I ACKNOWLEDGE that I have received the following document: a letter dated July 24, 2020, concerning Confederate Statue Located on the Southeastern Quadrant of the Uptown Square, Lexington, North Carolina. The undersigned individual hereto acknowledges the foregoing as evidenced by their signature below.

  
\_\_\_\_\_  
*Signature of person served*

Date: 07/24/2020

Delivered by: City of Lexington, City Manager's Office, E.Michael



**STEPHEN C. HOLTON  
ATTORNEY AT LAW**

115 West Center Street  
P.O. Box 1124  
Lexington, North Carolina 27292  
(336) 249-0146  
Fax (336) 249-6779

July 24, 2020

Karen Watford  
Chairman  
Davidson County Board of Commissioners  
P.O. Box 1067  
Lexington, NC 27293

Sara Powell, President  
E. Thomas Drake, Registered Agent  
The United Daughters of the Confederacy – North Carolina Division, Inc.  
302 N. Blount Street  
Raleigh, NC 27630

Debra Barta  
President  
Robert E. Lee Chapter 324  
The United Daughters of the Confederacy – North Carolina Division, Inc.  
Via Email: [bdeebra@gmail.com](mailto:bdeebra@gmail.com)

Re: Confederate Statue Located on the Southeastern Quadrant of the  
Uptown Square, Lexington, NC

Dear Chairman Watford, Mrs. Powell, Mr. Drake, Mrs. Barta:

As I am sure you are aware, confederate statues and monuments across this country have been at the center of confrontation and violence over the past several years. Protests in Charlottesville, Virginia, Durham and Chapel Hill, North Carolina, concerning confederate statues turned violent and in Charlottesville, Virginia, a white nationalist protester killed a woman when he drove his car into a crowd of counter protestors. With the tragic killing of George Floyd, Jr. by Minneapolis police on May 25, 2020, falling on the heels of video being released of an unarmed Ahmaud Arbery killed by vigilantes in Brunswick, Georgia, the nation appears to have reached a tipping point, with unprecedented historic levels of sustained protests arising across the country, in North Carolina and now in the City of Lexington.

In recent weeks, in the midst of historic, nationwide protests of the killings of unarmed black men, confederate statues and monuments have become the focus of justifiable anger and frustration; and impetus for protests and rallies; and most importantly, an urgent, impending threat to public safety. Protests in Charlottesville, Virginia, and other communities across this nation show the potential for threats to public safety surrounding confederate statues. For example, the toppled statue in Durham displayed the potential of an unsafe and dangerous condition when protestors pulled down that statue.

As you should be aware, activities that have occurred over the past 53 days relating to the confederate statue in uptown Lexington has necessitated an overwhelming police presence for the protection of the public safety and arguably for the confederate statue as well. It is clear that the continued presence of the confederate statue at its current location is detrimental to the public health, safety and welfare of the citizens of Lexington and Davidson County, as well as the safety and longevity of the statue. The polarizing intensity, dangerous rhetoric, the volume of activity and frequency of the ongoing demonstrations in and around the confederate statue is escalating at alarming rates, all of which pose a dangerous threat to public safety.

On July 2, 2020, via email, Terra Greene, Lexington City Manager, delivered an official notification to Davidson County officials that the confederate statue located on the property owned by Davidson County in the heart of uptown Lexington is posing a threat to public safety, which is based on public safety briefings provided by Lexington Police Chief Mark Sink. In the correspondence, the City Manager requested that Davidson County officials take immediate action as authorized under N.C.G.S. §100-2.1(c)(3) to remove and relocate the confederate statue.

On July 8, 2020, via email, the City Manager informed Davidson County Manager Casey Smith, regarding an appeal to the Davidson County leadership on the seriousness of the state of affairs in the heart of the Lexington downtown area. This email correspondence also reviewed the need for an increased presence of the Lexington Police Department's overtime, which was approaching \$50,000 since June 1, 2020, all in an effort to maintain peace and order around the confederate statue.

On July 9, 2020, at the Davidson County Commissioner's regular Thursday morning meeting, Terra Greene, in her capacity as City Manager, during the public address, reiterated the seriousness of the public safety threat around the confederate statue. Her commentary included appealing for the safety of the citizens of Davidson County, advocating for the business community that is struggling to recover from the COVID-19 pandemic already, and how the lack of business patrons, due to the continued protests around the confederate statute, affects much-needed sales tax to sustain City and County services,

amidst falling revenues during a recession, and the extreme effect it is having on the workload and the well-being of the Lexington Police Department.

On July 13, 2020, the City Council of the City of Lexington unanimously adopted a resolution which respectfully requested that the Davidson County Board of Commissioners remove and relocate the confederate statue to another location outside the City limits of Lexington. To date, Davidson County has failed to act or even respond to this urgent request. The said resolution noted that the continued display of the confederate statue in uptown Lexington is antithetical to the stated public policy of the City of Lexington of being a city of unity and a welcoming community to people of all backgrounds.

The Lexington Police Department began its protest detail assignments in regards to the confederate statue on Sunday, May 31, 2020. Since that time there have been over eleven (11) arrests. During the demonstrations and protests, the Lexington Police Department has dealt with weapons being openly displayed, including AR-15 rifles, handguns, tazers, laser pointers and other dangerous weapons. In addition, issues addressed by the Lexington Police Department in regards to the participants have involved disorderly conduct, the incitement of riots, loud music, amplified voices including profanity, racist remarks, anti-police rhetoric, the presence of militia activists, heavy vehicle traffic, just to name a few. In addition, there are serious concerns that a number of event participants are in possession of firearms in disregard of state law, which prohibit spectators and persons participating in a protest or demonstration from being in possession of dangerous weapons at such events. This ongoing activity in and around the City's center continues to invoke significant concern about the safety and well-being of its citizens and the potential for confrontation, breaches of the peace and other nuisance type conduct, which this City should not have to endure. It is clear that the intensity of the actions in and around the square due to the presence of the confederate statue is not likely to wane with the passage of time.

The continued presence of the confederate statue in its current location creates unsafe and dangerous conditions that are detrimental to the health, safety and welfare of the citizens, and the peace and dignity of the City, and is a public nuisance under several state statutes and the City's Code of Ordinances. Terra Greene, in her capacity as City Manager, has determined that the said dangerous and unsafe conditions constitute a public nuisance.

The only claims of ownership of this statue to date have come from the Robert E. Lee Chapter of The United Daughters of the Confederacy. Based on the UDC's claim, the confederate statue is therefore owned by a private party and the UDC has the ability to remove and relocate the confederate statue to a location outside the City limits. Likewise, the county is authorized to permanently remove and relocate the statue outside the City limits of Lexington pursuant to

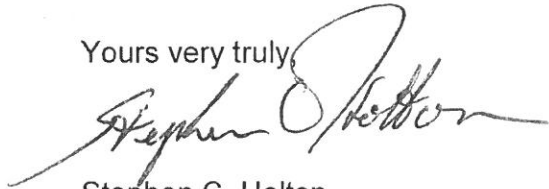
N.C.G.S. § 100-2.1(c)(3), in that the confederate statue is a threat to public safety because of the unsafe and dangerous conditions.

Due to concerns for overall public safety and for the protection of the statue, Davidson County and The Unified Daughters of the Confederacy – Robert E. Lee Chapter, are hereby directed to remove and relocate the statue from its present location to such other location outside the jurisdictional limits of the City of Lexington immediately, but no later than August 12, 2020.

Failure to comply with this direction may result in the City seeking a court order for the removal and relocation of the statue by way of injunctive relief in order to address the public safety concerns that are escalating each and every day, which shall include the recovery of the City's damages incurred in this matter, court costs and reasonable attorney's fees. In addition, the City has the right to exercise any other remedies that may now or hereafter exist under law for the abatement of public nuisances including, without limitation, the abatement of this nuisance under N.C.G.S. § 160A-193.

Should you have any questions, please do not hesitate to contact me.

Yours very truly,

A handwritten signature in black ink, appearing to read "Stephen C. Holton". The signature is written in a cursive style with a large, prominent initial "S".

Stephen C. Holton  
City Attorney for the City of Lexington

cc: Terra Greene, City Manager, City of Lexington  
Newell Clark, Mayor, City of Lexington  
Casey Smith, County Manager, County of Davidson  
Chuck Frye, County Attorney, County of Davidson

DAVIDSON COUNTY  
OFFICE OF THE COUNTY ATTORNEY

Post Office Box 1067  
913 N. Greensboro Street  
Lexington, North Carolina 27293-1067



Charles E. Frye III, County Attorney  
Michael K. Newby  
Sheri A. Woodyard  
Danielle De Angelis

Writer's direct contact:  
[chuck.frye@davidsoncountync.gov](mailto:chuck.frye@davidsoncountync.gov)  
(336) 236-3084

August 6, 2020

Stephen C. Holton  
Attorney at Law  
P.O. Box 1124  
Lexington, NC 27293

RE: Confederate Memorial located on Old Courthouse Square, Lexington, NC.

Dear Bit:

This letter is in response to your letter dated July 24, 2020, addressed to Karen Watford, Chair, Davidson County Board of Commissioners. In that letter you set out the City of Lexington's concerns regarding conditions created by protestors on the old courthouse square in Lexington. On behalf of the City of Lexington you demand that Davidson County remove the Confederate memorial from its current placement.

As we have previously discussed, North Carolina General Statute §100-2.1 (*Protection of monuments, memorials, and works of art.*) specifically provides that the memorial, defined as a "object of remembrance" by the statute, "may not be permanently removed and may only be relocated, whether temporarily or permanently, under the circumstances listed in this subsection and subject to the limitations in this subsection." N.C.G.S. §100-2.1(b). None of the circumstances subsequently listed within this subsection of the statute that would authorize removal or relocation of the Confederate memorial are applicable. G.S. §100-2.1(b)(1), (2).

The reliance by the City on G.S. §100-2.1(c)(3), which excepts an object of remembrance from the limitations on removal, is misplaced. The clear and common sense reading of this exception looks to the physical condition of the memorial. There is no evidence of structural deficiency to the Confederate memorial. No building inspector, or "similar official," as such position is set out in G.S. §153A-351(a), has determined that the memorial is in "an unsafe or dangerous condition." The attempt by the City to claim that the memorial is unsafe as a result of potentially unlawful actions by protestors does not require the removal of the memorial.

Efforts to advocate for the removal or relocation of the memorial would best be directed to the North Carolina General Assembly. Until amendment is made to G.S. §100-2.1 to allow local

government the authority to determine the appropriate placement for monuments and memorials that are part of North Carolina's history there is no action that Davidson County can legally take to comply with the demand made in your letter. In the alternative, there are other steps that the City can take to address its concerns for public safety that you set out in your letter.

Davidson County and the City of Lexington have long enjoyed a productive and mutually beneficial relationship. I hope that the City will respect that relationship and will further appreciate the legal position of the County.

Respectfully,

A handwritten signature in black ink, appearing to read "C. E. Frye III", with a stylized flourish at the end.

Charles E. Frye III

cc: Sara Powell, President, United Daughters of the Confederacy-  
North Carolina Division, Inc.

Debra Barta, President, Robert E. Lee Chapter 324, United  
Daughters of the Confederacy- North Carolina Division, Inc.