

Jim Palenick

From: Jim Palenick [jpalenick@dallasnc.net]
Sent: Friday, April 11, 2014 4:20 PM
To: 'Rick Coleman'; 'ronniemorrow@att.net'; 'huggybarber@att.net'; 'hoylewithers@yahoo.com'; 'jjerryc2@att.net'; 'jcmalker@gmail.com'
Cc: 'mstroupe@dallasnc.net'; 'Gary Buckner'; 'Steve Lambert'; 'Doug Huffman'; 'David Kahler'; 'Bill Trudnak'; 'A. Martin'; 'J. Thomas Hunn'
Subject: Town Manager's Weekly Report (#71)
Attachments: Freedom From religion.pdf

Mayor & Board of Aldermen(Women):

Please accept the following as the **Town Manager's Report** for the Week-ended Friday, April 11, 2014.

- As of late this week, we finalized the terms of a proposed wholesale Wastewater treatment agreement with Utilities Inc., for the Town of Dallas to accept all of the wastewater produced by the 53 homes in the College Park Subdivision, just off old Highway 321 adjacent to Town. These homes are currently served by a small "package-plant" located in the subdivision which would be abandoned once the private utility provider pays for and installs a central tap-in and metering pit to our collection system. The private provider would then pay us for all gallons of wastewater accepted and treated on a monthly basis, at the retail rate for out-of-Town users. Also, the private provider would continue to have full responsibility to operate and maintain the sewer collection system – the Town of Dallas would only be responsible for accepting and treating the cumulative wastewater produced. The term of the agreement is for 10 years with options for three additional ten-year periods. The utility provider has provided signed copies of the agreement which, as a result, will now appear on the May 13th Board Meeting for approval. This is a great opportunity for Dallas in terms of producing significant new sewer revenues at minimal additional expense.
- At the Courthouse this week, the masonry block walls of the elevator shaft were placed; much of the interior stud-framing was finished; cupola roof panels and part of the main building roof installed; and significant progress on the stair tower enclosure was completed. All the exterior masonry and stucco repairs are now complete and the stair-to-building water-table connection installed. Progress overall remains right on schedule.
- Attached herewith is an e-mail correspondence received today from the "Freedom from Religion Foundation" in which they inform us that we have failed to respond in writing to their (January 7, 2014) earlier correspondence requesting confirmation that we will no longer display the nativity scene as a focus display on public property. You may recall our discussion of this matter back in January and your consensus desire to hold off responding at that time. I do not believe that we can or should continue to ignore responding on behalf of the Town. A proper written response, probably from the office of the Town Attorney, is now in order.
- We have experienced some further issues this week with our Waterline contractor (Advanced development Concepts) failing to either properly patch, or maintain patches, or clean up areas in a manner consistent with the contract, or satisfactory to common practice. As such, we will be meeting with our Engineer and the Contractor/Owner next week to make very clear our dissatisfaction. We are also likely to do some cleanup with Town crews this weekend (on over-time) and bill all costs back to the contractor. This will get properly resolved.
- We received the blueprints and color palette for panels and trim for our pre-engineered storage building today, and will now be determining door and window openings; selecting colors; and returning same back to the manufacturer/vendor for their final fabrication. When they receive those finalized decisions, the building materials package will ship approximately 6 weeks thereafter.

Thank You,

James M. (Jim) Palenick
Interim Dallas Town Manager

210 N. Holland St.
Dallas, NC 28034
704-922-3176 office
704-214-1031 cell
balenick@dallasnc.net

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 • MADISON, WI 53701 • (608) 256-8900 • WWW.FFRF.ORG

April 9, 2014

SENT VIA U.S. MAIL & EMAIL:

jpalenick@dallasnc.net

Mr. Jim Palenick
Interim Town Manager
Town of Dallas
210 N. Holland Street
Dallas, NC 28034-1625

Re: Town-Sponsored Nativity Scene

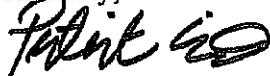
Dear Mr. Palenick:

Our national organization, which works to protect the constitutional principle of separation between state and church, contacted you on January 7, 2014, regarding a nativity scene displayed in the Town of Dallas. A copy of the original letter is attached for you review.

To date, we have not received a reply from you concerning our letter. We expect a written response from you as to what actions have been taken to resolve these concerns.

Thank you for your time and attention to this matter.

Sincerely,



Patrick C. Elliott
Staff Attorney

Enclosure

PCE:sms

FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 • MADISON, WI 53701 • (608) 256-8900 • WWW.FFRF.ORG

January 7, 2014

SENT VIA U.S. MAIL AND EMAIL TO: jpalenick@dallasnc.net

Mr. Jim Palenick
Interim Town Manager
Town of Dallas
210 N. Holland St.
Dallas, NC 28034-1625

Re: Town-Sponsored Nativity Scene

Dear Mr. Palenick:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding a constitutional concern with a nativity scene displayed in the Town of Dallas. FFRF is a national nonprofit organization with nearly 20,000 members across the country, including 450 members in North Carolina. Our purpose is to protect the constitutional principle of separation between state and church.

It is our understanding that this past December a large nativity scene was erected on Gaston Street, in front of the Old Courthouse. We were contacted by a concerned area resident who informs us that the nativity scene includes depictions of Mary and Joseph kneeling in reverence beside a baby Jesus with an angel overhead. We further understand that the nativity scene stands alone at the front of the pathway leading to the courthouse. An inflatable Santa and snowman off to the side of the building are far removed from the crèche. A picture of the display is enclosed for your review. We are unaware of any policy or permit given to a group or individual to erect this religious display.

The Supreme Court has ruled it is impermissible to place a nativity scene as the focus of a display on government property. *See County of Allegheny v. ACLU of Pittsburgh*, 492 U.S. 573 (1989); *Lynch v. Donnelly*, 465 U.S. 668 (1983). In *Allegheny*, the Supreme Court held that a county government's crèche displayed in the county courthouse was an unconstitutional endorsement of religion. The Court stated,

Lynch v. Donnelly, confirms, and in no way repudiates, the longstanding constitutional principle that government may not engage in a practice that has the effect of promoting or endorsing religious beliefs. The display of the crèche in the county courthouse has this unconstitutional effect.

492 U.S. at 621. The Court further determined that the placement of the crèche on the grand staircase of the county courthouse contributed to its illegality because "no viewer could reasonably think it occupies this location without support and approval of the government." *Id.* at

599-600. Moreover, the Court found that the nativity scene "sen[t] an unmistakable message that [the county] supports and promotes the Christian praise to God that is the crèche's religious message." *Id.* at 600. The display at the Old Courthouse, like the courthouse display in *Allegheny*, features a nativity scene as its focus. The display therefore constitutes a town endorsement of Christianity.

It is irrefutable that the crèche is a religious, Christian symbol. *See Lynch v. Donnelly*, 465 U.S. 668, 711 (1984) (Brennan, J. dissenting) (stating that the crèche is a "re-creation of an event that lies at the heart of the Christian faith"). Displaying an inherently Christian message on town property unmistakably sends the message that the Town of Dallas endorses the religious beliefs embodied in the display. When the town displays this manger scene, which depicts the legendary birth of Jesus, it places the imprimatur of the government behind the Christian religious doctrine. This excludes citizens who are not Christian—Jews, Muslims, Native American religious practitioners, etc.—as well as the almost 20% of the American population that is nonreligious.¹ Putting up a nativity scene sends the exclusionary message to these nonbelievers and non-Christians that they are outsiders in their community.

There are ample private and church grounds where religious displays may be freely placed by private parties. Once the government shows endorsement and preference for some religions over others, it strikes a blow at religious liberty, forcing taxpayers of all faiths and of no religion to support a particular expression of worship.

We request that the Town of Dallas ensure that this display is not placed on government property in the future. Please inform us in writing of the steps you are taking to address this constitutional concern so that we may notify our complainant.

Sincerely,



Patrick C. Elliott
Staff Attorney

Enclosure

PCE:stg

¹ "Nones on the Rise: One-in-Five Adults Have No Religious Affiliation," Pew Research Center, The Pew Forum on Religion & Public Life (October 9, 2012) *available at* <http://www.pewforum.org/Unaffiliated/nones-on-the-rise.aspx>.

