

The Washington Post

Live Nation deal's rising cost hits sour note with some on Montgomery council

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Tuesday, August 24, 2010; B04

It was a deal like no other in Montgomery County.

The plan crafted by County Executive Isiah Leggett (D) to bring the entertainment company Live Nation to Silver Spring, pitched as a way to help its struggling downtown, included \$8 million in state and local aid.

There were special exemptions from zoning and design rules for the developer of the rock venue; a promise that the government would cover most increased construction costs, \$80,000 in annual tax breaks for Live Nation and a chance for the company to profit from naming rights and rentals on what eventually is to be county-owned property.

But in a lawsuit brought by Seth Hurwitz, co-owner of the District's 9:30 Club, a Live Nation competitor, who said he would pay his own way in Silver Spring, Montgomery officials disclosed new information about how much the project is expected to cost the public: \$11.2 million, not the \$8 million they had repeatedly promised. The lawsuit alleges that county officials were deliberately hiding information about costs.

Word of rising costs for the project, which will be known as Fillmore Silver Spring, comes a few months after the County Council and Leggett had approved the jurisdiction's first spending cuts in 40 years. There have been layoffs and furloughs of government employees and unpopular reductions in parks, recreation and school spending. Soon, voters will turn out for the Sept. 14 Maryland primaries. Leggett faces no opposition, but several County Council members have challengers.

"We could have spent the money on something else," said County Council member Marc Elrich (D-At large), who questioned the deal when it was approved by the council two years ago. (Nancy Navarro, D-East County, was not a council member at the time).

The additional \$3.2 million will be borne by taxpayers because the county's agreement with Live Nation and the Lee family, which owns the site on Colesville Road, requires Montgomery to either pay the extra funds directly from its treasury or allow Live Nation to front the money and reduce its \$90,000 annual rent. Most of the money is coming from county projects that came in under budget, county officials said. Live Nation is paying \$2 million to outfit the inside of the building.

Groundbreaking for the Live Nation project is scheduled for Sept. 2. Bruce Lee, of Lee Development Group, did not return calls seeking comment.

Leggett administration officials say the project is crucial for downtown Silver Spring.

"Yes, the costs are higher, but it is still a very good deal for the county," said Diane Schwartz Jones, a top Leggett aide who, along with Chief Administrative Officer Timothy Firestone, promised the council two years ago that the price tag would not rise.

Schwartz Jones said the actual "hard costs" to construct the building remain around \$8 million, she said.

"This project brings a highly successful first-class entertainment venue to Montgomery County," she said.

It's not the first time a county arts project has ended up costing more than projected. When Montgomery built the nonprofit Strathmore's music center several years ago, it came in about 100 percent over original estimates of \$50 million to \$60 million. The public paid most of the \$100 million.

But the Live Nation deal, which helps a for-profit enterprise, continues to trouble some council members. Some bloggers have dubbed it "corporate welfare."

"It is wrong. When something goes this bad and you have not closed the deal, I think you have an obligation to open it up again, and pay what a real organization should pay for space like this," said Elrich, who said there were opportunities for the county to get a better deal from Live Nation two years ago.

"When we are cutting critical services to be giving \$7 million in county funds to this monopolist, I just feel that is not in the public interest," said council member Roger Berliner (D-Potomac, Bethesda).

As part of the agreement, the project was not competitively bid under normal county rules.

When the Live Nation building is completed, the Lees will donate the land underneath it to the county, and the county will own the building.

The Lees also secured exemptions from many planning department rules for development on adjacent property.

Council President Nancy Floreen (D-At Large) decided the council will not enter the fray. She said Leggett should have come back for an amendment to approve the increased spending, which Schwartz Jones disputed.

"The council needs to be briefed. We know nothing," said council member Valerie Ervin (D-Silver Spring), who is worried about rising costs as well as the impact on downtown Silver Spring.

Until the Live Nation project, Montgomery funded only nonprofit arts and entertainment organizations, usually by constructing their buildings, acting as their landlord and making grants to keep them afloat.

As with nonprofit arts and entertainment groups Montgomery has supported, the county plans to allow Live Nation to lease the venue to others and keep the rent money, which could be about \$6,000 a night. Live Nation would provide about 36 more nights a year at a reduced rent to community groups. The county could use the hall at a reduced rental rate or for free. Live Nation would donate \$30,000 annually to a downtown Silver Spring festival.

The proposal is similar to a plan crafted during the administration of former county executive Douglas M. Duncan (D) to try to attract the Birchmere music hall to Silver Spring. But that deal fell apart as the Lees grew frustrated with the Birchmere and began to look for another partner.