

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
SEPTEMBER 10, 2007**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman J.W. "Kirk" Kirkpatrick, III, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT:

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III

OTHERS PRESENT: County Finance Director Julie Davis, Chad Roberson, Robert Meynardie, Attorney with Nelson Mullins, and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation

DISCUSSION:

County Manager David Cotton presented the Board with a report regarding the performance of KMD Construction. Mr. Cotton shared that the timeline of the renovation of the courthouse is forty percent, with the completion of actual work being thirty percent. We now have our third project manager. Chad Roberson, PBC+L Architect shared that it has taken two months to schedule and receive a fee application for approval. The second project manager became hostile. After requesting a schedule they were very late in producing a critical path schedule. Mr. Roberson stated that two subcontractors have not been paid.

After discussion by the Board it was recommended that KMD be given thirty days to review the schedule with the new [third] project manager. Chairman Ammons inquired as to how the project manager with KMD plans to make up the time that has been lost during the construction. Mr. Roberson has been requested to write a letter for review by the Board of County Commissioners and present it to them during the October 15th meeting in closed session. Commissioner Enloe shared her dissatisfaction during her tour of the courthouse. Mr. Cotton shared that the architects are doing a tremendous job with the construction.

Mr. Roberson explained that Dr. Wenzel brought an agreement which has been signed by both Dr. Wenzel and the contractor, but not by David Cotton. Mr. Meynardie, Attorney with Nelson Mullins, advised [REDACTED] Mr. Roberson will continue to report the situation to County Attorney Killian. Chairman Ammons requested Mr. Roberson to review the change order regarding the HVAC. Mr. Roberson stated that every item inside the courthouse should be turned over to the County rather than various construction workers and recommended a memo stating this be given to the contractor.

OPEN SESSION:

Commissioner Upton moved to return to open session. Vice-Chairman Kirkpatrick seconded and the motion passed unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
OCTOBER 15, 2007**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman J.W. "Kirk" Kirkpatrick, III, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: None

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Attorney Bob Meynardie, of Nelson Mullins, "Attorneys for County".

OTHERS PRESENT: Chad Roberson, PBC + L Architect

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - KMD Construction

DISCUSSION:

Mr. Bob Meynardie presented [REDACTED]
[REDACTED] Mr. Chad Roberson and Mr. Bob Meynardie [REDACTED]. The Board members seriously considered filing a law suit for the KMD Construction's failure to submit a contractually compliant schedule. An actual letter of termination was discussed.

OPEN SESSION:

Commissioner Upton moved, seconded by Vice-Chairman Kirkpatrick to return to open session. The motion passed unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
JANUARY 22, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman J.W. "Kirk" Kirkpatrick, III, Commissioners Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: None

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey,

OTHERS PRESENT: Attorney Bob Meynardie, Nelson Mullins "Attorneys for County", Bill Noland, PE, Noland Construction Consulting, LLC

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - KMD Construction

DISCUSSION:

Mr. Bob Meynardie began [REDACTED]

[REDACTED] Mr. Noland concurred with Mr. Meynardie's statement, [REDACTED]

[REDACTED] Mr. Noland stated that based on his review on the meeting minutes, the pay application submitted, and the project manual, he identified two major issues which he thought KMD Construction would identify as a critical path. The first being unsuitable soil for the segmented wall construction. The second being the fourth and fifth floor structural conditions within the Historic Courthouse. Mr. Meynardie provided options [REDACTED]

[REDACTED] Mr. Noland suggested that the county could self-perform the segmented wall construction after provide notice to KMD Construction in order to stabilize the bank.

OPEN SESSION:

Commissioner Upton moved to return to open session. Vice-Chairman Kirkpatrick seconded and the motion passed unanimously. The Board returned to opened session.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017757

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
JANUARY 31, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman J.W. "Kirk" Kirkpatrick, III, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: None

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, Attorney Bob Meynardie, Nelson Mullins, "Attorneys for County".

OTHERS PRESENT: Chad Roberson, PBC + L Architect, and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - KMD Construction

DISCUSSION:

Mr. Bob Meynardie with Nelson Mullins "Attorneys for County" was present via conference call. The Board discussed KMD Construction and the request for a schedule for the renovation of the historic courthouse. A letter from Mr. Chad Roberson was sent to KMD Construction requesting the following: 1) a critical path, cost load schedule, 2) protection of work in place procedures 3) cold weather procedures for masonry and concrete placement and 4) response times for proposal requests and outstanding submittals. Chairman Ammons stated that the Board of County Commissioners feels that these four requests are normal business practice and not having them is beyond normal business practice by KMD Construction. Mr. Meynardie advised [REDACTED] Mr. Roberson advised that he plans to meet with the project manager tomorrow, February 1st to discuss the proposed schedule. The Board discussed designating County Attorney Killian as spokesperson for the Board regarding the potential litigation.

OPEN SESSION:

Commissioner Upton moved, seconded by Vice-Chairman Kirkpatrick to return to open session. The motion passed unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017759

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
FEBRUARY 4, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman J.W. "Kirk" Kirkpatrick, III, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: None

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M.

OTHERS PRESENT: Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - KMD Construction

DISCUSSION:

Mr. Chad Roberson, PBC + L Architect was present by conference call to discuss a schedule he received from KMD Construction concerning the historic courthouse renovation. Mr. Roberson stated that he and Attorney Bob Meynardie, Nelson Mullins "Attorneys for County" reviewed the contract terms of KMD Construction. Mr. Roberson stated that he received a schedule with costs assigned to different activities from KMD Construction. He further stated that he has not had sufficient time to evaluate the schedule for contractual compliance.

OPEN SESSION:

Commissioner Upton moved, seconded by Vice-Chairman Kirkpatrick to return to open session. The motion passed unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
FEBRUARY 18, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman J.W. "Kirk" Kirkpatrick, III, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: None

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M.

OTHERS PRESENT: Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - KMD Construction

DISCUSSION:

David Cotton, County Manager, stated that Mr. Chad Roberson, PBC + L Architect requested a cost loaded contractual schedule from KMD Construction concerning the historic courthouse renovation. Mr. Roberson reported to Mr. Cotton that progress has been made by KMD Construction.

OPEN SESSION:

Vice-Chairman Kirkpatrick moved, seconded by Commissioner Upton to return to open session. The motion passed unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
APRIL 7, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman J.W. "Kirk" Kirkpatrick, III, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: Commissioner Curtis left the meeting at 11:30 am

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III

OTHERS PRESENT: Chad Roberson, PBC + L Architect, Attorney Reed J. Hollander with Nelson Mullins Riley & Scarborough LLP and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+L Architect shared that KMD Construction continues working on the renovation of the historic courthouse, and has submitted a completion date of September 2008. PBC+L has received a schedule and all the critical path objects are stacked. A granite subcontractor has left. There is not a mock up of the panel. Since the critical path is stacked, the granite becomes a critical path issue.

PBC + L has not approved the schedule presented to them by KMD Construction. It would be invalid if the schedule were approved while KMD Construction is actually behind the submitted schedule. KMD Construction is required to update their schedule at every monthly meeting. All letters from KMD Construction are copied and sent to David Cotton, County Manager.

Chairman Ammons acknowledged that the Board has received the said letters. The letters include the criteria of KMD Construction. Chairman Ammons stated that the Board needs a schedule that is in accordance with the contract. Also, the Board needs to know the actual completion date in order to purchase items such as furniture. At this time the Board recognizes that the schedule is not in compliance. After discussion the Board stated that KMD Construction should be instructed to abide by the letters.

Mr. Roberson stated that a lien requesting another \$89,000 from KMD Construction has been submitted. This is due to failure to pay the subcontractor. Mr. Roberson has reviewed the issues and supports that lien. Hickory Sheet Metal may be afraid that KMD Constructions will walk.

[REDACTED]
[REDACTED]
[REDACTED] by County Attorney Killian.

Mr. Roberson explained the proposal to correct the retaining wall. The soil in the area of the wall is bad at the slope from the top of the new wall up to the walkway. The lowest wall is constructed in suitable soil.

The Board requested an update from Mr. Roberson for April 21, 2008.

OPEN SESSION:

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
MAY 5, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman J.W. "Kirk" Kirkpatrick, III, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: Vice-Chairman Kirkpatarick left the meeting at 12:15 pm

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III

OTHERS PRESENT: Chad Roberson, PBC + L Architect, Attorney Bob Meynardie with Nelson Mullins Riley & Scarborough LLP, William "Bill" Noland, with Noland Construction Consulting, LLC, David Teague, Public Information Coordinator, Captain David Mitchell, Sheriff's Office, Chuck Boyce, Deputy Sheriff, and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC + L Architect, presented a letter from PBC + L Architect, which certifies that there are legal grounds for termination of KMD Construction. This letter was sent to David Cotton, County Manager, and copies were presented to the Board. Mr. Roberson stated that KMD Construction has failed to perform.

David Cotton, County Manager presented a timeline of the historic courthouse to the Board. The timeline included the closed session minutes beginning September 2007.

County Attorney Chip Killian advised [REDACTED]

Attorney Bob Meynardie, Nelson Mullins Riley & Scarborough LLP, stated [REDACTED]

[REDACTED] Attorney Meynardie stated [REDACTED]

Chairman Ammons inquired as to the granite. Mr. Roberson explained that the granite wall has been taken down and rebuilt three times. A mock up was required, but was not produced. The renovation project is approximately sixty percent complete. The contract allowed 460 days for completion. Mr. Roberson stated that the County is now 410 days into the project. The connection between the tower and the courthouse has not begun. Mr. Roberson stated that he does not feel confident the work is of the quality required by the Board.

Commissioner Curtis asked what the difficulty had been with the granite. Mr. Roberson replied that KMD Construction is using bolts and nuts to install the granite and lapping 2" x 4" lumber over it instead of using steel braces. This process is inadequate.

Mr. Roberson shared that he and Mr. Meynardie met this morning with Warren Ashe, former project manager. Mr. Ashe stated that no one on the site knows what they're doing. Mr. Roberson urged the Board members to retrieve the "as built" drawings prior to terminating KMD Construction.

Mr. Roberson introduced William "Bill" Noland, with Noland Construction Consulting, LLC. Mr. Roberson stated that Mr. Noland has a working knowledge as to the procedure of termination letter. Mr. Noland explained that once the letter of termination is sent, the bond claims diversion. The surety will contact KMD Construction and ask questions. The surety will look for a way out and ask, "Were there adequate grounds for termination?"

Once the grounds for termination have been confirmed, the surety will try to find how much this termination will cost them. They will set up a reserve and decide the contract balance amount that is owed them. Mr. Noland explained that this will be a problem because the pay applications were not set up as a cost loaded schedule. Mr. Roberson has been certifying the pay applications. The surety could claim that the project was under bid. Their consultant will try to protect the surety's interest.

Chairman Ammons inquired as to buying back the bond. Mr. Roberson stated that questions the surety may ask is, "Do you want KMD Construction to finish?" and "Do you want to buy back the bond?" Chairman Ammons inquired if the work has been substandard.

Mr. Roberson stated that the fifth floor stairwell should be poured with concrete grout, but Mr. Cotton and Mr. Roberson are of the opinion that it is hollow. This has not been confirmed. Mr. Cotton asked as to learning of deficiencies in the work after the date of termination. Mr. Noland stated that all deficiencies should be determined as soon as possible.

Chairman Ammons stressed the importance to thoroughly examine the renovation project thus far and locate everything that is wrong. Chairman Ammons stated that the County cannot continue with KMD Construction on the job site. They simply must abide by the instructions given them by the architects, but they have not. Mr. Meynardie stated [REDACTED]

Mr. Roberson and Mr. Noland stated that they have not had previous experience with this bonding company. Chairman Ammons instructed Mr. Cotton to investigate the bonding company. Commissioner Curtis stated that once the Board has terminated KMD Construction, there will be months without any renovation to the courthouse.

Mr. Noland stated that the surety will require an investigation. Mr. Noland stated that most of the subcontractors are professional workers. Mr. Noland discussed the possibility of the plumber stating that he under bid the work and therefore, is not performing. Mr. Noland recommended terminating KMD Construction. Mr. Noland speculated one question that may arise is, "Do you have a recommended contractor to finish this job?" The surety can reject bidders that were received prior to selecting KMD Construction.

Mr. Meynardie stated [REDACTED] County Attorney Leon M. "Chip" Killian stated [REDACTED].

Mr. Roberson confirmed that there is rebar used in place on the fifth floor stairwell, but not concrete filled blocks. In the meeting this morning, Mr. Ashe stated that he was instructed not to grout, but Bill Davis said to Mr. Ashe, "They're not smart enough to figure that out".

Mr. Cotton recommended using the expertise of Bill Noland. Mr. Roberson stated that Mr. Noland would be beneficial to the County and could review the documents and be sure the County is ready when the surety comes.

Mr. Meynardie reviewed [REDACTED]

Mr. Meynardie has [REDACTED]

Mr. Meynardie recommended [REDACTED]

Mr. Noland advised that after the termination letter is sent, the subcontractors will attempt to gather their tools and materials and vacate the site. The large equipment would have to remain on site. Holding the equipment is an action that could create claims. Mr. Noland suggested supervising the workers as they leave the site. Mr. Cotton stated that he will request from Sheriff Alexander, a deputy go on site with him to gather the "as built" drawings. Mr. Noland explained that the surety will likely pay the County for work because it is in their best interest.

Vice-Chairman Kirkpatrick inquired as to the lease for the tax office. Mr. Cotton stated that the lease for the tax office was extended once and he does not expect a problem with requesting another extension. Mr. Cotton assured the Board that he will update them with the progress.

Commissioner Enloe made a motion to return to open session. Vice-Chairman Kirkpatrick seconded and the motion carried unanimously.

The Board agreed to recess the closed session until 1:45 pm.

Upon returning to closed session, the Board continued discussion of potential litigation of the historic courthouse. Mr. Cotton stated that during the recess he contacted the Sheriff's office. Captain David Mitchell, Sheriff's Office, and Chuck Boyce, Deputy Sheriff, followed Mr. Cotton onto the site and joined the closed session meeting. Mr. Cotton confirmed that he retrieved the "as built" drawings.

During the recess, Mr. Meynardie [REDACTED]

Mr. Meynardie advised [REDACTED]

Mr. Killian advised [REDACTED]

Commissioner Enloe confirmed that a bicentennial event scheduled for December 15th, 2008, was to be held at the historic courthouse, but this event could be held at another location. The Board discussed using the courthouse lawn for events. The Board agreed that the lawn is available for events.

OPEN SESSION:

Commissioner Upton made a motion to enter into open session. Commissioner Enloe seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017767

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
JULY 21, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: Vice-Chairman Kirkpatrick

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III

OTHERS PRESENT: Chad Roberson, PBC + L Architect, Attorney Bob Meynardie with Nelson Mullins Riley & Scarborough LLP, William "Bill" Noland, with Noland Construction Consulting, LLC, Bernie Friesmuth and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Attorney Bob Meynardie, Nelson Mullins Riley and Scarborough, stated that Bernie Friesmuth, with Nicholson Consulting, P.C., was waiting outside the meeting room. Mr. Friesmuth may be called upon to join the closed session meeting in order to answer questions. Attorney Meynardie explained [REDACTED]. MACTEC has issued a report regarding construction issues. Attorney Meynardie presented [REDACTED]

Attorney Meynardie stated [REDACTED]

Chad Roberson, PBC + L Architect, stated that the MACTEC report is an independent assessment of the CMU walls per the scope of the contract. The report notes that the quality of grout and placement of rebar was very sporadic. This report has been shared with the Surety. Mr. Roberson confirmed he has received no response from the Surety regarding the report.

Attorney Meynardie stated that [REDACTED]

[REDACTED] Attorney Meynardie reviewed [REDACTED] William "Bill" Noland, with Noland Construction Consulting, LLC, explained that if KMD Construction does not finish the renovation of the historic courthouse, the Surety would be required to engage another contractor to finish the project. This is an expensive proposition requiring a new bidding package. County Attorney Chip Killian explained [REDACTED]

Commissioner Curtis inquired as to the inspection of the work. Mr. Roberson stated that inspection of the work is a stipulation which he highly recommends.

Commissioner Curtis asked if the Surety would pay for hiring MACTEC. Attorney Meynardie stated

Mr. Noland explained that the MACTEC inspection techniques would require finishing work which should be paid for by the Surety. Mr. Roberson agreed that there should be in the agreement a stipulation to include repair work related to the areas inspected by MACTEC.

Chairman Ammons inquired if there was a list of subcontractors who have not been paid. Mr. Roberson replied that the Surety has, with the exception of two, come to an agreement with the subcontractors relative to outstanding payments.

Mr. Noland stated that the Surety's representative will call the subcontractors. Mr. Friesmuth will review any debt owed to the subcontracts and make recommendations for payment. This comes with a lien waiver so the Surety will know how much it will cost to finish the job.

Bernie Friesmuth entered the meeting room. Attorney Meynardie inquired as to Mr. Friesmuth's work experience. Mr. Friesmuth answered that he has thirty plus years of experience and has worked with numerous Sureties.

Attorney Meynardie inquired as to Mr. Friesmuth's role in the event the Surety continued with KMD Construction and the role of KMD Construction completing the project. Mr. Friesmuth replied that he would have the ultimate say as to what KMD Construction's role would be in order to complete the renovation project. KMD Construction and the subcontractors would be working directly under him.

Attorney Meynardie stated that KMD Construction was terminated for many reasons, one being a failure to supply a schedule. Mr. Meynardie asked Mr. Friesmuth if he would provide a schedule. Mr. Friesmuth replied that he has a cost loaded schedule and estimates that the renovation project would be completed in approximately six months.

Attorney Meynardie inquired as to how long before the project could begin. Mr. Friesmuth answered that the work could begin within one week of a Takeover Agreement being executed.

Attorney Meynardie inquired about the role of Mr. Hardy on the project. Mr. Friesmuth answered that the Surety would engage Mr. Hardy as the project superintendent. He stated further that the superintendent as well as the subcontractors must meet his expectations to be on the project.

Mr. Noland asked who assembles the pay application. Mr. Friesmuth answered that the Surety is in the process of ratifying the subcontractors' agreements. Mr. Noland asked at what point Mr. Friesmuth would pay KMD Construction and who is responsible for that payment. Mr. Friesmuth answered that after a monthly draw against the contract to pay for the work performed by the subcontractors, KMD Construction would be paid last.

County Attorney Killian explained to Mr. Friesmuth the moral responsibility the Board has to the citizens of Haywood County and that presently, there is a reluctance to have KMD Construction on the job site. Mr. Friesmuth responded that there are two roles of KMD Construction. The first is the contractor's license and insurance. The second role is the need for a superintendent.

Attorney Meynardie stated that since the time of termination of KMD Construction, several subcontractors reported that they were not getting paid. Attorney Meynardie asked Mr. Friesmuth if he knew how many subcontractors were not paid to date. Mr. Friesmuth replied that he believes all the subcontractors, except one, were paid up to March 2008, which includes the last pay application

before termination. There are some subcontractors who worked during April 2008, who have not been paid. Mr. Noland stated that the subcontractors would be paid through Mr. Friesmuth.

Attorney Meynardie explained that the most economical option is to turn the project over to the Surety and provide an agreement with stipulations as to the role of KMD Construction, since the County's relationship is now with the Surety.

The Board agreed that a news release would be prepared for and presented to the media. The Board discussed the extra cost the County has incurred, attorney fees, consulting fees and the delay for completion of the renovation. Attorney Meynardie will prepare a draft agreement by Wednesday, July 23rd, 2008. David Cotton, County Manager, stated that he would brief the Board members on the evening of July 24th, 2008.

Mr. Friesmuth left the meeting room at 8:40 pm.

OPEN SESSION:

Chairman Ammons made a motion to enter into open session. Commissioner Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED	
Date	_____
Chairman	_____
Clerk	_____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
AUGUST 4, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman Kirkpatrick, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: None

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III

OTHERS PRESENT: Chad Roberson, PBC + L Architect, Attorney Bob Meynardie with Nelson Mullins Riley & Scarborough LLP, and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Attorney Bob Meynardie, Nelson Mullins Riley and Scarborough, presented [REDACTED]

Attorney Meynardie and Chad Roberson, PBC + L Architect, expressed their approval of Bernie Friesmuth, with Nicholson Consulting, P.C. If the Takeover Agreement is approved, Mr. Friesmuth would be on the job site everyday for the first ninety days, after the execution of the agreement. After sixty days, the Surety could request that Mr. Friesmuth's oversight be reduced to two days per week.

Commissioner Enloe stated that the Surety is insisting on using the contractor that the County fired, and therefore, she will vote against the motion as a matter of principle. Vice-Chairman Kirkpatrick inquired [REDACTED]

Attorney Meynardie explained [REDACTED]

[REDACTED] Vice-Chairman Kirkpatrick inquired [REDACTED]

[REDACTED] . Attorney

Meynardie stated [REDACTED]

[REDACTED] Vice-Chairman Kirkpatrick inquired [REDACTED]

[REDACTED] Attorney Meynardie confirmed [REDACTED]

[REDACTED] . Mr. Meynardie

stated [REDACTED]

David Cotton, County Manager, stated that if the Board approves the Takeover Agreement, a press release would be prepared for the media.

OPEN SESSION:

Vice-Chairman Kirkpatrick made a motion to enter into open session. Commissioner Curtis seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date _____

Chairman _____

Clerk _____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
AUGUST 18, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman Kirkpatrick, Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: None

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III

OTHERS PRESENT: Chad Roberson, PBC + L Architect & Bill Noland, Noland Construction Consulting, LLC

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

County Manager David Cotton provided an overview and characterization of the progress thus far since the execution of the Takeover Agreement. He stated that meetings with Mr. Bernie Friesmuth, Surety's representative and Chad Roberson, Architect with PBC+L have been progressing and will continue through the course of the project. In addition, Mr. Bill Noland, Noland Construction Consulting, LLC will be attending these meetings on behalf of the County.

Mr. Noland stated that the meetings have been productive with detailed packages prepared and submitted by Mr. Friesmuth. Lastly, he stated that Mr. Friesmuth has ratified all of the subcontractors' agreements with the exception of two.

Mr. Roberson stated that the meetings are as expected and that his firm is responding to requests for information. Chairman Ammons inquired about changing the inspection dates to be unannounced and would such action be more effective. Mr. Roberson responded that the set inspection dates are designed to provide both parties with a clear understanding of the items to be inspected each week. He added that this will not preclude him from making unannounced inspections.

OPEN SESSION:

Vice-Chairman Kirkpatrick made a motion to enter into open session. Commissioner Curtis seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED	
Date	_____
Chairman	_____
Clerk	_____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
SEPTEMBER 8, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman Kirkpatrick, Bill L. Upton, and Mary Ann Enloe present.

MEMBERS ABSENT: Commissioner Charles "Skeeter" Curtis

STAFF PRESENT: County Manager/Clerk to the Board David B. Cotton, County Attorney Leon M. "Chip" Killian, III

OTHERS PRESENT: Chad Roberson, PBC + L Architect, Bill Noland, Noland Construction Consulting, LLC

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Mr. Chad Roberson, PBC+L Architect provided an update concerning the progress of the project. He stated that the slope, floors, connector and other outstanding issues requiring his input and feedback have been answered and that the Surety is in the process of moving forward. Mr. Roberson stated that the footings and sewer tie in have been completed by the Surety.

Chairman Ammons inquired as to the status of the written reports from the engineer. Mr. Roberson responded that the reports have been generated and delivered to the Surety. Chairman Ammons stated that Mr. Bernie Friesmuth needs to continue to oversee the project. Mr. Bill Noland, Noland Construction Consulting, LLC stated that Mr. Friesmuth involvement is more critical now than down the road due to the need to address all of the outstanding issues left by KMD and providing for a clear plan through the completion of the project. Mr. Noland stated that the project needs Mr. Friesmuth's detail oriented, pragmatic approach.

Chairman Ammons inquired about the status of the schedule. Mr. Noland responded that a cost loaded schedule per the contract has been delivered by the Surety. Mr. Roberson stated that the Surety is making progress. Chairman Ammons asked about the completion date. Mr. Noland stated that the completion date has moved due to the remediation of Stair Tower B and the Elevator Tower to the first of March 2009.

Mr. Roberson stated that the retaining wall and slope have been reviewed and direction has been given to the Surety for completing this part of the project. Chairman Ammons inquired about the single retaining wall being sufficient since the original scope called for three walls. Mr. Roberson explained the final design and stated that the engineers have agreed that the single wall as designed will carry the load.

OPEN SESSION:

Commissioner Upton made a motion to enter into open session. Commissioner Enloe seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date _____

Chairman _____

Clerk _____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
OCTOBER 7, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman Kirkpatrick, Bill L. Upton, and Mary Ann Enloe present.

MEMBERS ABSENT: Commissioner Charles "Skeeter" Curtis

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton and Assistant County Manager Marty Stamey

OTHERS PRESENT: Chad Roberson, Architect PBC + L, Bob Meynardie, Attorney (via phone conference) and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Attorney Bob Meynardie with Nelson Mullins Riley & Scarborough LLP, was present by conference call to discuss [REDACTED]

[REDACTED] Mr. Cotton explained that the proposals are to repair some unforeseen conditions of the historic courthouse. Attorney Meynardie explained [REDACTED]

[REDACTED] Mr. Roberson stated that William "Bill" Noland, with Noland Construction Consulting, LLC, asked Bernie Friesmuth if he expected that there would be any time or general condition claims. Mr. Friesmuth advised that there were none. Mr. Roberson confirmed that these proposal requests could not have been discovered until after the renovation began.

OPEN SESSION:

Commissioner Upton made a motion to return to open session. Commissioner Enloe seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017778

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
OCTOBER 20, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman Kirkpatrick, Commissioners Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton

OTHERS PRESENT: County Attorney Leon M. "Chip" Killian, III, Architect PBC + L, Chad Roberson, Attorney Bob Meynardie, Bill Noland, Noland Construction Consulting, LLC, and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

The Takeover Agreement stated that Bernie Friesmuth, with Nicholson Consulting, P.C., would be on the job site everyday for the first ninety days. Chad Roberson, PBC + L Architect, explained that after the initial ninety days the renovation project on the historic courthouse is not on schedule. The Surety claims delays have resulted because the change orders approved by the County included language that they did not approve. Mr. Roberson explained that Attorney Bob Meynardie, Nelson Mullins Riley and Scarborough, reviewed the change orders and agreed to change the language per the request of the Surety. At this time the Surety claims there will be no additional requests for change orders. There have been two catch basins found in the historic courthouse. Bill Noland, Noland Construction Consulting, LLC, stated that he asked Mr. Friesmuth to explain the reason for the delay. Attorney Bob Meynardie wrote a letter asking the Surety to define the reason(s) for delay.

Mr. Noland stated that Mr. Friesmuth stated that he is waiting on the change order before committing to a completion date. Mr. Noland instructed Mr. Friesmuth to put up a delay claim if he has one. Mr. Roberson explained that the granite installers have changed. A weekly meeting will be held tomorrow. David Cotton, County Manager, will write a summary of that meeting and place a copy of the summary in the mail boxes of each Commissioner.

Commissioner Curtis inquired as to the percentage of work on the renovation project is completed. Mr. Roberson stated that approximately fifty percent of the work is completed.

OPEN SESSION:

Commissioner Upton made a motion to return to open session. Commissioner Enloe seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED	
Date	_____
Chairman	_____
Clerk	_____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
NOVEMBER 3, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman Kirkpatrick, Commissioners Bill L. Upton, Charles "Skeeter" Curtis and Mary Ann Enloe present.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey

OTHERS PRESENT: County Attorney Leon M. "Chip" Killian, III, Architect PBC + L, Chad Roberson and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

David Cotton, County Manager, advised that during a recent meeting with Bernie Friesmuth, Nicholson Consulting, P.C., and others involved in the renovation project, an engineer hired by the surety provided a building code evaluation relative to the CMU walls. Chad Roberson, PBC + L Architect, presented an update on the renovation of the courthouse. Mr. Roberson explained that the first level of the slope, and new construction of the granite appear to be excellent. Mr. Roberson stated that tomorrow the issue regarding the mock up is expected to be resolved. The tower and the courthouse are connected. Mr. Roberson stated that a letter was received from an engineer from Greensboro regarding the building code. Mr. Roberson reiterated that the plans must match the drawings. At this time Mr. Roberson has not seen anything formally as it relates to the schedule, which is expected with the pay application. The Takeover Agreement stated that Mr. Friesmuth would be on the job site everyday for the first ninety days. The ninety days end on November 4th, 2008.

County Attorney Killian recommended [REDACTED]

Commissioner Enloe stated that a gentleman contacted her with a concern. Apparently he was a subcontractor who has not been paid completely for his work. Vice-Chairman Kirkpatrick advised the gentleman to hire an attorney.

Commissioner Upton inquired as to the percentage of work on the renovation project that is completed. Mr. Roberson stated that approximately sixty percent of the work is completed.

OPEN SESSION:

Commissioner Enloe made a motion to return to open session. Commissioner Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
NOVEMBER 17, 2008**

MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman Kirkpatrick, Commissioners Charles "Skeeter" Curtis and Mary Ann Enloe

MEMBERS ABSENT: Commissioner Bill L. Upton

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey

OTHERS PRESENT: County Attorney Leon M. "Chip" Killian, III, Architect PBC + L, Chad Roberson, Attorney Bob Meynardie, Noland Construction Consulting, LLC, Bill Noland, Facilities Maintenance Director Dale Burris, and Administrative Assistant Rebecca Morgan

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC + L Architect, explained that his office had received a delay claim from the Surety for a total of forty-seven calendar days. The total cost associated with this delay claim is \$172,088.50. Mr. Roberson stated that a time impact analysis from the Surety indicated the reason for the delay was because of change order no. 9. Attorney Bob Meynardie explained that [REDACTED] Mr. Roberson expressed that it appears the Surety has overstated the quantity of days for their delay claim. Mr. Roberson suggested requesting an updated schedule from the Surety.

David Cotton, County Manager, stated that issues with the stairwell and elevator remediation must be resolved and are not included in this delay claim. Mr. Roberson stated that he has spoken to Bernie Friesmuth, with Nicholson Consulting, P.C., regarding the repairs to the stairwell. The Board of County Commissioners agreed with Mr. Roberson's recommendation that the architect request additional information regarding the delay claim.

Mr. Roberson expressed the importance of obtaining an updated schedule from the Surety. Vice-Chairman Kirkpatrick inquired if documentation was being maintained and Mr. Roberson confirmed that the project was being documented appropriately. Mr. Meynardie reiterated [REDACTED]

OPEN SESSION:

Commissioner Enloe made a motion to return to open session. Vice-Chairman Kirkpatrick seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED	
Date	_____
Chairman	_____
Clerk	_____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
DECEMBER 15, 2008**

MEMBERS PRESENT: Chairman Kirkpatrick, Vice-Chairman Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, & County Attorney Leon M. "Chip" Killian, III, Dale Burris, Facilities & Maintenance Director and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, Architect PBC + L, Attorney Bob Meynardie, Bill Noland, Noland Construction Consulting, LLC

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Bill Noland, Noland Construction Consulting, LLC, Attorney Bob Meynardie, Chad Roberson, Architect PBC + L, and Dale Burris, Facilities & Maintenance Director introduced themselves to the Board. Mr. Roberson provided an update of the historic courthouse renovation project. A letter denying the delay claim was sent to the Surety by Mr. Roberson, Architect PBC+ L, as the County's representative.

Mr. Meynardie explained that [REDACTED]

[REDACTED] David Cotton, County Manager, stated that presently the County is tracking the additional costs being incurred by the County. Commissioner Ensley inquired as to the frequency that Mr. Noland reviews the work and is on site. Mr. Noland replied that since September 2008, he has reviewed the work once a month. Mr. Burris explained that he has been inspecting the work on the historic courthouse daily. Mr. Burris documents the work with supplemental photographs. The Board discussed scheduling a walkthrough of the courthouse with Mr. Burris.

Mr. Meynardie advised [REDACTED]

[REDACTED] Mr. Roberson stated that the renovation work under the direction of the Surety is satisfactory to date. Mr. Meynardie stated [REDACTED]

The Board agreed that the local media should be given a tour of the historic courthouse. Mr. Cotton confirmed that he would prepare a public statement concerning the status of the project.

OPEN SESSION:

Vice-Chairman Upton made a motion to return to open session. Commissioner Swanger seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED	
Date	_____
Chairman	_____
Clerk	_____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
JANUARY 5, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Dale Burris, Facilities and Maintenance Director, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, Architect PBC + L, Attorney Bob Meynardie (via phone conference)

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Mr. Roberson, Architect PBC+ L, summarized the actions regarding the delay claims. On December 31st, 2008, a letter was sent to the Surety summarizing all previous correspondence related to the delay claim. In previous letters sent to the Surety, additional information was requested so that the County could better analyze the delay claim. The Surety initially refused to provide the additional information as requested by the County. Subsequent to their refusal, they reconsidered and provided the additional information. The additional information provided following their reconsideration, partially addressed the CMU remediation but did not reflect actual activities existing on the fourth floor. Following the analysis of the information provided by the Surety, a second letter was sent to the Surety on December 31st, 2008 denying the claim. Within the same letter, additional information was requested regarding the second delay claim.

Chairman Kirkpatrick stated that the delay claims have been analyzed by Mr. Roberson and Attorney Bob Meynardie. The Surety may request mediation no later than thirty days after being notified of the denial by the County. Attorney Meynardie stated [REDACTED]

[REDACTED] Mr. Meynardie stated that [REDACTED]
[REDACTED]

OPEN SESSION:

Vice-Chairman Upton made a motion to return to open session. Commissioner Ensley seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017788

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
JANUARY 20, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Dale Burris, Facilities and Maintenance Director, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, Architect PBC + L

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, presented a status report of the renovation project on the historic courthouse. The plaster work in the courtroom area is approximately 95% completed. A paint mock up has been completed. On December 31st, 2008, a letter was sent to the Surety summarizing all previous correspondence related to the delay claim. The Surety may request mediation no later than thirty days after being notified of the denial by the County. However, no response from the Surety has been received at this time.

David Cotton, County Manager, stated that Bernie Friesmuth, with Nicholson Consulting, P.C., has requested a meeting, but a letter of request has not been received. The County requested a recovery schedule, which would be a true timeline for completion of the work. The County has not received a pay application for December. The Surety has five days until the January pay application will be due.

Mr. Roberson stated that progress on the renovation is being made and the goal to finish the courtroom with delivery of the benches is February 16th, 2009. The Surety agrees with that date.

Mr. Cotton stated that there was some water damage to the wainscoting that was stored by the County. Dale Burris, Facilities and Maintenance Director, explained that the contractor is now storing the wainscoting in a warehouse. Mr. Burris explained that since he began working for the County, there are more crews on site at the historic courthouse and the site has been kept clean.

Mr. Roberson and Mr. Burris left the meeting.

Mr. Cotton explained that a letter requesting additional fees has been received from PBC+L. The request includes compensation for additional work by Chad Roberson, PBC + L Architect and consulting engineers hired directly by the Architect. County Attorney Killian explained [REDACTED] Mr. Killian stated that he discussed this request with Attorney Bob Meynardie. Mr. Killian stated that Mr. Meynardie recommended [REDACTED]

Mr. Cotton is working with Bill Noland, Noland Consulting, to evaluate the details of the request. Once these details have been collected, Mr. Cotton will present them at the Board's next closed session meeting. There was a general discussion about the merits of the PBC+L request for additional fees.

OPEN SESSION:

Vice-Chairman Upton made a motion to return to open session. Commissioner Swanger seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date _____

Chairman _____

Clerk _____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
FEBRUARY 2, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Facilities and Maintenance Director Dale Burris, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, Architect PBC + L

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, stated that a letter was sent to the Surety which included five main areas.

- 1) We should receive a certified copy of the pay application for December 2008 from the Surety.
- 2) Relating to the delay claim, we have received a letter. We have not completed our review.
- 3) We have not been formally informed that the Surety would reduce their presence on site.
- 4) There was a demand from the Surety that we change our regular meeting date from Tuesday to Thursday.
- 5) Chad has spoken to Attorney Bob Meynardie [REDACTED] Attorney Meynardie [REDACTED]

Another area to be reviewed is the demand for a letter regarding arbitration received from the Surety.

Mr. Roberson reported that work completed on the courtroom looks great and we have been given a completion date. We have asked for a recovery schedule.

David Cotton, County Manager, sated that Attorney Meynardie said [REDACTED] Attorney Meynardie has corresponded with the Surety's attorney and explained that we are requesting a conference regarding the supervision on the renovation site.

Mr. Cotton stated that recently tile and grout were layed in very low temperatures. Chairman Kirkpatrick urged that the Surety be notified of this problem. Mr. Roberson confirmed that this issue has been documented. Mr. Cotton explained that the latest letter to the Surety written from Attorney Meynardie stated that they are on notice that the additional costs are coming out of the bottom line.

Commissioner Curtis inquired if there were enough employees on site to do the work. Mr. Burris stated that they seem to have plenty of workers on site recently, especially in the courtroom.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Commissioner Curtis seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date _____

Chairman _____

Clerk _____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
FEBRUARY 16, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Facilities and Maintenance Director Dale Burris, Finance Director Julie Davis, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, Architect PBC + L

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, presented a report on the Historic Courthouse. Mr. Roberson stated that a meeting is scheduled March 3rd, 2009 with a representative from the Surety, Bill Noland, Noland Construction Consulting, LLC and Mr. Roberson. The pay application for January has been received and is being reviewed by the Architect. The Surety has added inaccurate details to the County's change order #9. Mr. Roberson stated that the Surety had a timeframe of ten days which has elapsed. There has been no reference to a delay claim.

Commissioner Swanger inquired if the walkway was part of the base contract. Mr. Roberson confirmed that it was part of the base contract.

Dale Burris, Facilities and Maintenance Director stated that the benches for the courtroom will arrive soon. Most of the finishes are complete and the carpet is in place.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Vice-Chairman Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017794

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
MARCH 2, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, County Attorney Leon M. "Chip" Killian, III, Facilities and Maintenance Director Dale Burris, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, Architect PBC + L, Bill Noland, Noland Construction Consulting, LLC

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, presented a report on the Historic Courthouse. A punch list for the historic courtroom was made and other areas of the Historic Courthouse should be punched out for review. Furniture has begun to arrive.

David Cotton, County Manager, stated that the regular meeting regarding the renovation project is scheduled for March 3rd, 2009 with Bill Noland, Noland Construction Consulting, LLC, Mr. Roberson, Dale Burris, Facilities and Maintenance Director, Mr. Cotton and a representative from the Surety. Mr. Cotton will take notes during that meeting.

Bill Noland, Noland Construction Consulting, LLC, explained that the delay claim from August is allegedly a result of the County's change orders. The base line schedule was changed. The Surety is asking for \$3,500 per day for their time delay. The delay damages claim is for approximately \$105,000. The denial was made by the county in December 2008 and the deadline for filing for arbitration was thirty days.

Mr. Roberson stated that the Surety has been working on the front part of the Historic Courthouse and preparing for a punch list. KMD Construction had a pay schedule and these schedules were never tied together.

Dale Burris, Facilities and Maintenance Director, stated that Wednesday, February 25th, the benches for the historic courtroom arrived. Most of the lights are left on at the courthouse for security reasons.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Commissioner Curtis seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
MARCH 16, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Facilities and Maintenance Director Dale Burris, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, Architect PBC

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, presented a report on the Historic Courthouse. The granite work is approximately 99% completed. Mr. Roberson stated that the renovation is expected to be completed by May 2009.

David Cotton, County Manager, stated that an informal meeting was held March 3rd, 2009 with Bill Noland, Noland Construction Consulting, LLC, Dale Burris, Facilities and Maintenance Director, and a representative from the Surety, during which time the Surety explained their reasons the delay claim should be overturned. Mr. Cotton responded in a letter which he sent to Bernie Friesmuth, Nicholson Professional Consulting, Inc. Copies of the letter were sent to Assistant County Manager Marty Stamey, Finance Director Julie Davis, Noland Construction Consultant Bill Noland, Chad Roberson, and Claims Counsel, Donald Spratt.

After discussion the Board scheduled a tour of the historic courthouse on April 6th, after the regularly scheduled Board meeting.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Commissioner Ensley seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017798

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
APRIL 6, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Facilities and Maintenance Director Dale Burris, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, Architect PBC

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, stated that April 17th, 2009 is the scheduled completion date given by the Surety, but Mr. Roberson does not expect completion on that date. No punch lists have been completed at this time.

Dale Burris, Facilities and Maintenance Director, reported that April 2nd, at 9:15 pm he received a phone call reporting heavy smoke was coming from the courthouse. Waynesville Fire Department responded to the scene. Three space heaters were left operating inside the historic courthouse. Don Hardy, Project Superintendent, arrived on site at approximately 9:45 pm and stayed until approximately 11:30 pm. Bernie Friesmuth, Nicholson Professional Consulting, Inc., arrived at approximately 10:00 pm. There is an oily, white petroleum residue on the walls and general areas from the smoke damage sustained from one heater. Smoke traveled up the stair tower. The heaviest smoke damage was sustained on the third, fourth and fifth floors of the historic courthouse. The contractor will be required to provide the necessary cleanup. David Cotton, County Manager, stated that the walls were swabbed by Service Master. Mr. Roberson stated that Service Master wiped down some of the walls with a chemical sponge. Commissioner Curtis inquired who was actually cleaning the historic courthouse and recommended professional crews to clean the smoked areas. Mr. Roberson stated that at this time, exactly who will be performing the cleaning has not been determined. Chairman Kirkpatrick stated that the County must have the cleanup done professionally as to avoid potential problems in the future in regards to smoke damages as a result of negligence of the construction workers. Mr. Cotton stated that a conference telephone call is scheduled with Attorney Bob Meynardie regarding the incident with the smoke and the Surety's response with the informal meeting held March 3rd, 2009, with Bill Noland, Noland Construction Consulting, LLC, and a representative from the Surety, during which time the Surety explained their reasons the delay claim should be overturned. Commissioner Swanger stated that smoke interacts with humidity. Chairman Kirkpatrick stated that the County needs a quick response regarding the smoke incident or the County will need to litigate as soon as possible. Mr. Cotton stated that he will discuss this issue with Attorney Meynardie and deduct the cost from the contract price.

OPEN SESSION:

Vice-Chairman Upton made a motion to return to open session. Commissioner Ensley seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED	
Date	_____
Chairman	_____
Clerk	_____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
APRIL 20, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Finance Director Julie Davis, Facilities Maintenance Director Dale Burris and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, PBC + L Architect was present via conference call.

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, reported that the fire sprinklers and smoke alarms at the Historic Courthouse failed inspection. Mr. Roberson advised the Surety that they must provide the County with a list of everything that is complete and incomplete on the Historic Courthouse project.

Dale Burris, Facilities and Maintenance Director, stated that on April 9th, Neo Corporation arrived at the Historic Courthouse with RC Woodcock, a third party testing agent. Mr. Woodcock removed samples from levels one, three, four and five. Samples were sent to the testing laboratory. Mr. Woodcock advised that the areas of acoustical porous tile should be replaced because they cannot be cleaned thoroughly. The estimated cost for removing and replacing the tile is \$10,000 to \$12,000. Mr. Roberson confirmed the estimates. Mr. Woodcock stated that some areas could be cleaned and repainted to encapsulate soot particles. All walls need to be cleaned. After discussion the Board requested that Mr. Woodcock provide a follow up letter of recommendations per his findings and results of the testing.

David Cotton, County Manager, stated that a letter has been sent to the Surety indicating that they are on notice and that the Surety is expected to address all concerns regarding the Historic Courthouse immediately. Commissioner Curtis inquired if the Surety's insurance carrier had been notified of the smoke damage. Chairman Kirkpatrick instructed Mr. Cotton to demand from the Surety, the name of their insurance carrier. Mr. Cotton stated that a follow up letter would be sent to the insurance carrier of the Surety.

Chairman Kirkpatrick received a call from former Sheriff Alexander inquiring as to the landscaping of the Historic Courthouse. Mr. Burris stated that the landscaping was subcontracted by Ingle and Sons through Hickory Construction. Commissioner Swanger asked if a decision had been made regarding the trees on the courthouse lawn. Mr. Cotton stated that the Board has made no decision.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Vice-Chairman Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date _____

Chairman _____

Clerk _____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
MAY 4, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Finance Director Julie Davis, Facilities Maintenance Director Dale Burris and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Chad Roberson, PBC + L Architect

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, reported that Bernie Friesmuth, representing the Surety, has indicated that the renovation on the Historic Courthouse is complete. Mr. Roberson informed him that the project is incomplete. Cleaning is required due to smoke damage. Last week the terrazzo was being ground and installation of some hand rails between level zero and level one were not installed. Mr. Roberson stated that he sent a letter to the Surety, but has not received a reply. Mr. Roberson stated in the letter we were taking a stance that the project is not finished. We are not doing a punch list of substantial completion until all items are completed. There are some things that are life safety issues left incomplete. The warranty period begins at the time of sub-contractor completion. Mr. Roberson reported that the approved amount for March 6th, 2009 pay application are zero. Six items remain outstanding; the transfer switch reimbursement, Mactec invoices reimbursement, liquidated damages from June 16th, 2008 through May 8th 2009 (assumed date of substantial completion), utilities beyond the contractual completion date in accordance with Addendum #2 (does not include April or May invoices), additional design fees and consulting fees. June 16th, 2008 through May 8th, 2009 are the dates of liquidated damages and these continue to accumulate. The contract allows that we can hold funds plus five percent. We take the original sum of contract and we deduct actual and liquidated damages. The liquidated damages total, through May 8th, 2009, \$97,800. Liquidated damages are \$300 per day for every day until substantial completion is approved.

Dale Burris, Facilities and Maintenance Director, stated that on May 25th, the furniture will arrive at the Historic Courthouse. Installation will take ten to fourteen days.

Commissioner Curtis inquired as to the smoke damage at the Historic Courthouse. Mr. Roberson stated that the nothing has been done regarding the smoke damage. The Surety has not responded to Mr. Roberson's initial letter regarding the smoke damage. Mr. Roberson confirmed that the notification has been made to the Surety's builders risk insurance.

Mr. Burris stated that the temporary construction filters have been removed. Mr. Roberson reiterated that before the project is completed, the Surety must complete the owner's punch list. Mr. Burris walked through the Historic Courthouse this morning and most of the incomplete items that were

noted on April 28th, remain incomplete. Mr. Burris reported that Mr. Friesmuth stated everything is complete on the project. Vice-Chairman Upton inquired as to the grass coming through the mulch. Mr. Burris replied that a weed mat under the mulch did not prevent the grass from growing, but the area would be sprayed to prevent weed penetration.

David Cotton, County Manager, stated that a follow up letter will be sent to the Surety regarding the smoke damage.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Commissioner Ensley seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date _____

Chairman _____

Clerk _____

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
MAY 18, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, and Dale Burris, Facilities and Maintenance Director

OTHERS PRESENT: Chad Roberson, Architect PBC + L

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Potential Litigation - Historic Courthouse

DISCUSSION:

Chad Roberson, Architect PBC+ L, summarized and provided an overview of the progress of work since the last briefing. Dale Burris, Facilities and Maintenance Director, explained and summarized the action taken by the County to address the smoke damage that resulted from a heating unit malfunction, which occurred on April 2nd, 2009. Mr. Roberson stated that the Insurance Company notified PBC+L that a Claims Adjuster had been assigned and will be in contact to inspect the damage. David Cotton, County Manager, stated that as instructed, proper notice was provided to the Insurance Company concerning the Smoke Damage Claim and the County's expectations for remediation. Commissioner Curtis inquired as to the status of the punch list. Mr. Roberson responded that it would take two full weeks assuming a full staff was provided by the Surety. Mr. Roberson concluded by providing an update for the elevator inspections with an estimated inspection date of May 19th, 2009.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Vice-Chairman Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017806

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
JUNE 1, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, County Attorney Leon M. "Chip" Killian, III, Finance Director Julie Davis, Facilities & Maintenance Director Dale Burris, Susan Layton, Human Resources Director and Administrative Assistant Rebecca Morgan.

OTHERS PRESENT: Chad Roberson, PBC + L Architect.

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Historic Courthouse

DISCUSSION:

Chad Roberson, PBC+ L Architect, reported that he inspected the Historic Courthouse with the punch list. The inspection for the elevator is scheduled to be completed this afternoon. Mr. Roberson stated that we deducted the outstanding design fees and liquid damages from the March pay application. The April pay application was received one month late. Mr. Roberson advised there will be smoke and soot remediation.

Dale Burris, Facilities and Maintenance Director, stated that NEO Corporation inspected the Historic Courthouse and advised that the areas of ceiling tile should be replaced because they cannot be cleaned thoroughly. The quote provided by B. Allen Construction was higher than NEO Corporation's estimate. The walls must be cleaned and refinished. The cost for cleaning and painting is \$10,500. The cleaning is scheduled to begin June 3rd. Furniture is scheduled to begin arriving June 4th. Mr. Burris stated that the elevators are not freight elevators as defined by the North Carolina Department of Labor (NCDOL).

David Cotton, County Manager, stated that the Surety's insurance carrier agreed with most of the claims for the smoke damage, but differs on the cost of the ceiling tile remediation. The insurance carrier submitted a claim, which is \$15,000 less than the estimates submitted by the contractors. Mr. Cotton stated that the County will add that amount to the damages owed by the Surety.

Mr. Burris stated that he is meeting with Blue Ridge Glass to discuss replacing windows. The seal cracked on approximately 20 windows causing condensation to collect between the panes of windows.

Mr. Roberson explained that certification of substantial completion is expected by the end of the week. Mr. Cotton stated that the move-in date is June 27th assuming that the certificate of occupancy is issued by the appropriate authorities.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Vice-Chairman Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
JUNE 15, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, County Attorney Leon M. "Chip" Killian, III, Assistant County Manager Marty Stamey, Finance Director Julie Davis, Facilities & Maintenance Director Dale Burris, Erosion Control Director Marc Pruett and Administrative Assistant Rebecca Morgan.

OTHERS PRESENT:

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Historic Courthouse

DISCUSSION:

David Cotton, County Manager, stated that Bernie Friesmuth, with Nicholson Consulting, P.C., cleaned out his desk and left the renovation site. Mr. Cotton received a letter from Mr. Friesmuth explaining that the work is completed. Mr. Cotton stated that because the Fire Marshal was not available that day, it was impossible to complete a final check off of the Historic Courthouse. At this time there are no life safety issues. The evacuation plans for the Historic Courthouse were completed by Dale Burris, Facilities and Maintenance Director, saving the County a great deal of money. The total cost of the renovation project is \$7.2 million. Moving dates are June 27th and 28th. Mr. Cotton stated that the County will add the amount to the damages owed by the Surety.

Mr. Burris stated that NEO Corporation inspected the Historic Courthouse Mr. Cotton stated that the move-in dates are June 27th and 28th. Mr. Burris confirmed that smoke remediation inspection was completed on June 8th. Mr. Burris stated that the Town of Waynesville has issued a certificate of occupancy for Haywood County if the County agrees to do the work (fire caulking, smoke / damp proofing, and sealing around several wall penetrations). The offices at the Waynesville Plaza have been rented to the dental clinic, per Mr. Burris' telephone conversation with Ms. Clayton, owner of the building. Mr. Burris will schedule a meeting with Ms. Clayton after the building is vacated regarding removing the walls which are now being used for offices in the Tax Administration Department.

Mr. Cotton stated that he is satisfied with Neo Corporation. Mr. Cotton stated that the furniture for the Historic Courthouse looks beautiful. A ribbon cutting ceremony is being considered for the Historic Courthouse. Volunteers with Haywood Community Connections will be on site at the Historic Courthouse to welcome visitors and direct them to various offices. David Teague, Public Information Officer suggested to Mr. Cotton that tours of the courthouse be scheduled.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Vice-Chairman Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
JULY 13, 2009**

MEMBERS PRESENT: Chairman J.W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley present.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, and Finance Director Julie Davis.

OTHERS PRESENT: None.

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Litigation - Historic Courthouse

DISCUSSION:

David Cotton, County Manager, presented an update on the renovation of the Historic Courthouse. The punch list includes the following; plaster repair in the courtroom, replacement of panels in the elevators, & other items.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Vice-Chairman Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
AUGUST 3, 2009**

MEMBERS PRESENT: Chairman J.W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, and Mark S. Swanger present.

MEMBERS ABSENT: L. Kevin Ensley

STAFF PRESENT: Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Finance Director Julie Davis, Facilities Maintenance Director Dale Burris and Administrative Assistant Rebecca Morgan.

OTHERS PRESENT: Meynardie Law Firm LLP Attorney Bob Meynardie was available via telephone.

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Litigation - Historic Courthouse

DISCUSSION:

Attorney Bob Meynardie explained

Attorney Meynardie stated

Attorney Meynardie stated

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Vice-Chairman Upton seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
AUGUST 27, 2009**

MEMBERS PRESENT: Chairman J.W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, L. Kevin Ensley, and Mark S. Swanger present.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager David Cotton, County Attorney Leon M. "Chip" Killian, III, Finance Director Julie Davis, and Administrative Assistant Rebecca Morgan.

OTHERS PRESENT: Meynardie Law Firm LLP Attorney Bob Meynardie was available via telephone.

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Litigation - Historic Courthouse

DISCUSSION:

Attorney Bob Meynardie reviewed

Attorney Meynardie spoke

emphasized

Attorney Meynardie

Attorney Meynardie

County Attorney Chip Killian asked,

Attorney Meynardie replied

Attorney Meynardie stated

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Commissioner Curtis seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk

HCC-017815

**HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES
SEPTEMBER 8, 2009**

MEMBERS PRESENT: Chairman J. W. "Kirk" Kirkpatrick, Vice-Chairman Bill L. Upton, Commissioners Charles "Skeeter" Curtis, Mark S. Swanger and L. Kevin Ensley.

MEMBERS ABSENT: none

STAFF PRESENT: County Manager / Clerk to the Board David B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Finance Director Julie Davis and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: none

GENERAL STATUTE: Litigation §143-318.11(a)(3)

SUBJECT: Litigation - Historic Courthouse

DISCUSSION:

David Cotton, County Manager and County Attorney Killian presented a brief update on the status of the Historic Courthouse. Commissioner Swanger inquired if during the renovation of the Historic Courthouse, KMD Construction were responsible for signage. David Cotton, County Manager, replied that KMD Construction were responsible only for signs regarding safety issues. Other signage was not part of the contract.

OPEN SESSION:

Commissioner Swanger made a motion to return to open session. Commissioner Ensley seconded and the motion carried unanimously.

CLERK

CHAIRMAN

RELEASED

Date

Chairman

Clerk