



Official Use Only:  
Date Received:

STATE ETHICS COMMISSION  
**COMPLAINT FORM**

The State Ethics Commission has the authority to investigate complaints against those persons covered by Chapter 138A, North Carolina General Statutes, "The State Government Ethics Act," for alleged violations of the Act. Please see section 138A-12 of the Act. This complaint must be filed within two years of the date you, the Complainant, knew or should have known of the conduct upon which this complaint is based. Please note that the Ethics Commission does NOT have jurisdiction over all public officials or state employees.

CONTACT INFORMATION  
*(Please Type or Print clearly)*

*The Ethics Act requires that a complaint contain the name, address, and telephone number of the person filing the complaint. The Commission cannot accept anonymous complaints.*

Printed Name: Monroe A. Miller, Jr.

Address: 2200 Camp Branch Road

Waynesville  
(City)

Telephone No: (828) 456-3718

NC

28786

(State)

(Zip)

NATURE OF THE COMPLAINT

The Ethics Commission does NOT have jurisdiction over all public officials or state employees. G.S. 138A applies to legislators, legislative employees, public servants, and judicial officers. Please refer to G.S. 138A-3(30) for a list of those State employees included in the category of "public servants." Also, a list of covered persons is posted on the State Ethics Commission's website:

<https://ethics.ncsbe.gov/coverage/coveredPersons.aspx>.

1. Identify the person that you believe may have violated specific provisions of the Ethics Act:

Name: See Attachment.

Job Title or Appointive Position of the person against whom this complaint is filed:

See Attachment



4. Provide the names of other persons who may have information that would support your allegations.

See Attachment.

5. State whether the individuals and conduct complained of have been the subject of a prior complaint or proceeding of any kind. If so, state the place where the prior complaint was filed and its current status.

**SWORN COMPLAINT**

I hereby swear or affirm, under penalty of perjury and other penalties established by North Carolina law, that the information provided in this complaint is true, correct, complete, and of my own personal knowledge, or if not, I believe the information to be true based upon:

Monica C. Miller  
(Signature)

Date: 3/13/2020

STATE OF NORTH CAROLINA  
COUNTY OF Haywood

SWORN TO (or affirmed) and subscribed before me this day by:

Anita A. Mentry

Date: 3/13/20

Anita A. Mentry

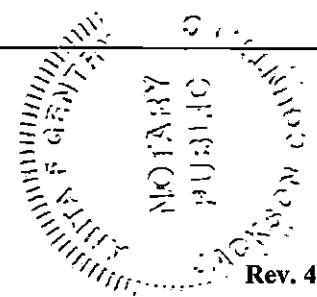
Official Signature of Notary/Public

Notary's printed or typed name: Anita T. Mentry

My Commission Expires: October 22, 2021

(Official Seal)

**Submit the completed sworn complaint to:  
State Ethics Commission  
P.O. Box 27685  
Raleigh, NC 27611**



Monroe A. Miller, Jr.  
2200 Camp Branch Road  
Waynesville, NC 28786  
March 13, 2020

**Subject: State Ethics Committee Complaint, Attachment.**

This attachment supplements Items 1 - 5 on the Complaint Form.

1. Identify the person that you believe may have violated specific provisions of the Ethics Act:
  - David Francis, Program Administration - Economic Development (although his Official Title from HR is Administrative Program Evaluator),
  - Kevin Ensley, Chair, Haywood County Board of Commissioners,
  - Tracy Wells, Clerk to the Board of Commissioners,
  - Bryant Morehead, Haywood County Manager.
2. Provide the date(s) the alleged violation occurred: 3/10/2020.
3. Please provide a concise statement of the nature of your complaint **and** specific facts indicating that a violation of Chapter 138A (the Ethics Act) *or* Chapter 120 (the Legislative Ethics Act) of the North Carolina General Statutes has occurred. Please provide as much detail as possible and attach any documentation you have that supports your claim.

David Francis, along with the other named people in this complaint, intentionally withheld bid information of two (2) bids that were opened at a public meeting in the Haywood County Courthouse at 2:00 pm on 3/10/2020. Jeff Bishop, a McGill Engineering employee, opened the Bids, read the bid amounts, informed me that I could inspect the bids but neither photograph them nor make copies of them, indicating that these were not public records. McGill is a vendor that Haywood County uses for various engineering projects. Jeff Bishop then returned the bids to their original envelopes and took them away.

David Francis wrote an e-mail to Bryant Morehead one day later, detailing and reconfirming these events. David Francis provided copies of the bids two days later.

If these bids were not public records, why did Jeff Bishop offer the opportunity to inspect these documents? This is not the first time these people have pulled this stunt. A similar county project for spreading dirt on county land had similar bids, bids were opened, and immediately sent to McGill Engineering, and I did not receive those bids until several weeks later.

How is it that a vendor of Haywood County can declare bids that were opened in a public environment, allow inspection, yet refuse to allow either photographing the documents or making copies of the documents, declare that they are not public records, and get away with it?

I cannot find the immediate section in either Chapter 138A (the Ethics Act) *or* Chapter 120 (the Legislative Ethics Act) where it says a public record has turned into not a public records.

Something stinks in Haywood County Government, and I request that this commission launch an investigation into David Francis, Bryant Morehead, Tracy Wells and Kevin Ensley.

4. Provide the names of other persons who may have information that would support your allegations.  
Terry Ramey, all people named in this complaint.

The following are supplementary information relating to the circumstances surrounding this restriction of public information.

E-mail, Public Information Request for Bid Documentation.

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Subject: Request for Public Information - REBID NOTIFICATION, Request #1.

Date: Tue, 10 Mar 2020 10:46:21 -0400

From: Monroe Miller

To: Bryant Morehead <bryant.morehead@haywoodcountync.gov>

CC: KEVIN "Adjudication" ENSLEY <Kevin.Ensley@haywoodcountync.gov>, Brandon Rogers <brandon.rogers@haywoodcountync.gov>, JAMES WEAVER "KIRK" KIRKPATRICK the III <Kirk.Kirkpatrick@haywoodcountync.gov>, Tommy Long <Tommy.Long@haywoodcountync.gov>, Mark Pless <mark.pless@haywoodcountync.gov>, Tracy Wells <Tracy.Wells@haywoodcountync.gov>, David Francis <david.francis@haywoodcountync.gov>, Terry Ramey <terryramey2017@gmail.com>, Eddie Cabe <aecabe@bellsouth.net>, Mark Cathey <mark.cathey@mcgillengineers.com>

Mr. Morehead,

Bids for Francis Farm Capping are due to be opened at 2pm today. In order to prevent the fiasco that occurred with the David Francis Dirt Spreading Project, in that David Francis immediately handed over the bids to McGill, I originally requested scanned copies of the bids to be opened today back on 2/11/2020. Please provide these scanned copies of the bids prior to David Francis turning them over to McGill.

If this process goes the same way as bids were handled for the David Francis Dirt Spreading Project, I will not hesitate to file a complaint against you, Kevin Ensley, Tracy Wells and David Francis with the North Carolina Ethics Commission [<https://ethics.ncsbe.gov/>].

Monroe A. Miller, Jr. Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

The project was designated at the Haywood County Francis Farm Landfill Restrictive Cover Implementation Project No. 14.00708.

**REBID NOTIFICATION**  
**Francis Farm Landfill**  
**Restrictive Cover Implementation Plan**  
**Haywood County, North Carolina**

Sealed bids for the project entitled Francis Farm Landfill, Restrictive Cover Implementation Plan will be received by Haywood County until 2:00 P.M. local time March 3, 2020 in the Haywood County Historic Courthouse Meeting Room located at 215 North Main Street, Waynesville, North Carolina 28786. At said place and time, all Bids that have been duly received, will be publicly opened and read aloud.

A mandatory pre-bid conference for pre-qualified bidders only was held at the Francis Farm Landfill in the Haywood County Administration, Maintenance, and Bus Garage Facility at 176 Farmview Road, Waynesville, North Carolina, 28786 on January 14, 2020 at 10:00 a.m. The following contractors attended the pre-bid meeting and are qualified to bid this project:

- • Morgan Corporation
- Shamrock Environmental Corporation
- T&K Construction
- Ryan Incorporated Central
- Wright Brothers Construction
- Cooper Barnette & Page, Inc.
- Atlantis Commercial Group Inc.

THE PROJECT GENERALLY CONSISTS OF the construction of a 20-acre LLDPE landfill cap, including approximately 200,000 cubic yards of earthwork, paved access road construction, installation of an arched culvert over a stream, installation of landfill gas (LFG) and leachate collection piping, raising existing LFG extraction wellheads, installation of a sewerage pump station and force main, stormwater piping, and erosion control measures.

Digital copies of the Bid Documents have been provided to the pre-qualified bidders. Please contact the pre-qualified bidders directly to submit a bid as a subcontractor.

The successful bidder shall be required to furnish separate, 100 percent Performance and Payment Bonds in compliance with North Carolina General Statutes Chapter 44A Section 143-129, and with Article 3 of Chapter 44A of the North Carolina General Statutes. The Performance Bond shall be in full force and effect for one (1) year after the date of final acceptance of the project by the Owner.

Each bid shall be accompanied with a cash deposit or certified check drawn on a bank or trust company insured by the FDIC or a Bid Bond prepared on the form of Bid Bond contained in the Bidding Documents or a Surety Company's standard form and properly executed by a corporate surety licensed under the laws of North Carolina to execute such bonds. The amount of the bid bond shall be equal to five (5) percent of the total of the bid. The bid deposit shall be retained by the Owner if the successful bidder fails to execute the contract or fails to provide the required bonds, as stated above, within ten (10) days after the proper notice of award of the contract.

The Owner reserves the right to reject any and all Bids, to waive informalities, or to reject non-conforming, non-responsive, or conditional bids. The Owner reserves the right to award a contract

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to the lowest, responsive, responsible bidder or bidders, taking into consideration quality, performance and time.

Bidders must comply with the President's Executive Order No. 11246 as amended, which prohibits discrimination in employment regarding race, creed, color, sex or national origin. Bidders must comply with Title VI of the Civil Rights Act of 1964, the Davis-Bacon Act, the Anti-Kickback Act, the Contract Work Hours Standard Act, and 40 CFR 33.1016, and 40 CFR 60-4.

Bidders must comply with the requirements of the State of North Carolina and be appropriately licensed as a Contractor as provided in General Statutes Chapter 87. **Any bid submitted without the completed proper forms will be rejected.**

David Francis,  
Haywood County Program Administrator  
Haywood County, North Carolina

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Announcement of Bid Opening.

MAR 1 2020

ADDENDUM NUMBER SIX (6)

HAYWOOD COUNTY  
FRANCIS FARM LANDFILL  
RESTRICTIVE COVER IMPLEMENTATION  
PROJECT NO. 14.00708

This Addendum Number Six (6) is issued this the 28<sup>th</sup> day of February, 2020 to all parties who hold a set of Bid Documents for the project entitled: "Francis Farm Landfill Restrictive Cover Implementation". This Addendum Number Six (6) shall become part of the Contract Documents and its receipt acknowledged on the bid documents at the time of bidding.

The following additions, revisions, and/or clarifications shall be made to the Contract Documents:

General

- A. The bid date is being changed. Sealed bids will now be accepted until 2:00 pm local time on March 10, 2020 at the Haywood County Historic Courthouse Meeting Room located at 215 North Main Street, Waynesville, North Carolina 28786. At said place and time, all Bids that have been duly received will be publicly opened and read aloud.

This Addendum Number Six (6) is issued this the 28<sup>th</sup> day of February 2020.



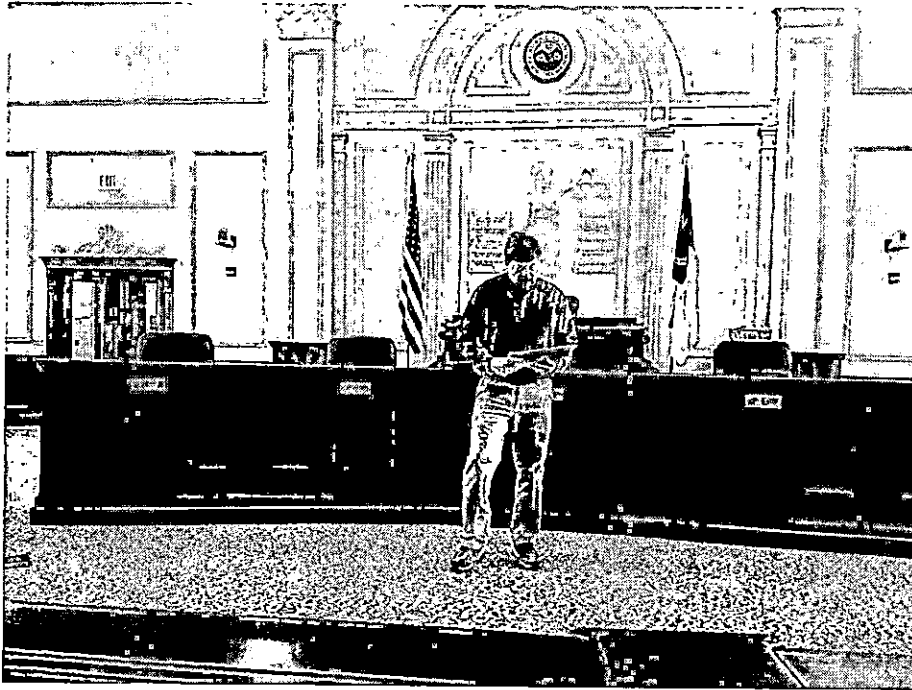
Shaping Communities together

55 Broad Street  
Asheville, North Carolina 28801  
828-252-0575  
14.00708





Jeff Bishop from McGill on 3/10/2020, handling two bids.



David Francis, being a wise [expletive deleted], hiding behind a cell phone camera.

The fellow behind David Francis, looking like he is praying, is Kris Boyd, Facilities Director.



My notes taken during the bid opening.

Francis Farm Corp  
Bid Opening

MAR 10 2020

3/10

2 P

2 Bids

Francis  
Boyd

Morgan Corp, SC 8,888,840

T&K Contract, AL 6,805,673.70

Jeff BISHOP - MCGILL

- I could inspect Bids
- I was not allowed to photograph documents
- I was not allowed to make copies
- Not Public Information until Certified

B.S.!

Monroe A. Miller, Jr.  
2200 Camp Branch Road  
Waynesville, NC 28786

E-mail from David Francis confirming my notes at the Bid Opening.

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Subject: Request for Public Information - REBID NOTIFICATION, Request #1.  
Date: Wed, 11 Mar 2020 13:31:12 +0000  
From: David Francis <david.francis@haywoodcountync.gov>  
To: Bryant Morehead <Bryant.Morehead@haywoodcountync.gov>  
CC: Kevin Ensley <Kevin.Ensley@haywoodcountync.gov>, Brandon C. Rogers <brandon.rogers@haywoodcountync.gov>, Kirk Kirkpatrick <Kirk.Kirkpatrick@haywoodcountync.gov>, Thomas A. Long <Tommy.Long@haywoodcountync.gov>, Steven M. Pless <mark.Pless@haywoodcountync.gov>, Tracy Wells <Tracy.Wells@haywoodcountync.gov>, Terry Ramey <terryramey2017@gmail.com>, Eddie Cabe <aecabe@bellsouth.net>, Mark Cathey <mark.cathey@mcgillengineers.com>, Monroe Miller

Bryant,

McGill opened two bids yesterday for the Francis Farm Landfill CAP project and each bid amount was read aloud. Mr. Miller had a chance to inspect the bids, but wanted to photograph the bids. McGill told Mr. Miller the bids were not official and needed to be reviewed, but he could inspect the bids. Mr. Miller declined to inspect the bids. I was asked if I wanted to deviate from that suggestion. I declined since Mr. Miller was given the opportunity to inspect the bids.

I did not keep nor make copies of the bids and they are not in my possession.

Once I receive the bids from McGill, I will make sure that Mr. Miller has a copy of both bids.

David B. Francis  
Haywood County  
Program Administration  
Economic Development  
215 N Main Street  
Waynesville, NC 28786  
828 452 6625 Office  
828 356 2602 Direct Line  
828 452 6715 Fax Line  
828 558 7252 Cell  
[www.haywoodcountync.gov](http://www.haywoodcountync.gov)  
[www.haywoodchamber.com](http://www.haywoodchamber.com)  
[www.haywoodedc.org](http://www.haywoodedc.org)  
[www.visitncsmokies.com](http://www.visitncsmokies.com)

E-mail from David Francis forwarding the two bids.

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Subject: Requested Bids

Date: Thu, 12 Mar 2020 19:09:49 +0000

From: David Francis <david.francis@haywoodcountync.gov>

To: Monroe Miller

CC: Bryant Morehead <Bryant.Morehead@haywoodcountync.gov>

Attached are the requested bids.

You're welcome.

David B. Francis  
Haywood County  
Program Administration  
Economic Development  
215 N Main Street  
Waynesville, NC 28786  
828 452 6625 Office  
828 356 2602 Direct Line  
828 452 6715 Fax Line  
828 558 7252 Cell  
[www.haywoodcountync.gov](http://www.haywoodcountync.gov)  
[www.haywoodchamber.com](http://www.haywoodchamber.com)  
[www.haywoodedc.org](http://www.haywoodedc.org)  
[www.visitncsmokies.com](http://www.visitncsmokies.com)

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Two bids have been loaded on my website, [www.haywoodtp.net](http://www.haywoodtp.net)

<https://www.haywoodtp.net/pubII/200313TandK-Bid%2003.10.20.pdf>

<https://www.haywoodtp.net/pubII/200312MorganCorpBid%2003.10.20.pdf>