

# Haywood County "Toeprints"

March 17, 2010

Vol. #1 Issue #2 (Subject: Old Walmart Building Purchase, 3/15/2010 Commission Meeting, 912wnc.com)

## What's Happening?

The purpose of this newsletter is to inform Haywood County Taxpayers of what transpires at the bi-monthly County Commission Meetings. This newsletter will be written from the perspective of a casual observer, myself. Any opinions expressed will be mine.

## The old Walmart Building Purchase

The County Commissioners signed a PURCHASE AND SALE AGREEMENT in January 2010 to purchase the old Walmart building for the purchase price of \$6.6 million. Earnest money was \$150K down, \$100K 120 days after the effective date. The closing date is to be 7/31/2010. The board approved a Reimbursement Resolution [re: Commission Meeting 2/1/2010 Attachment 3] for the Wal-Mart building purchase of \$12.5 million.

What just happened here?

The County Commissioners have been holding closed meetings for - I don't know how long - to find a suitable replacement location for DSS (Department of Social Services). They, and they alone, decided to purchase the old Walmart building and renovate it for a total cost to the county of \$12.5 million. A loan application has been made to the USDA for the purchase and renovation, and this amount will be added to the existing county debt.

## Article V

Article V, Section 4 of the **Constitution of the State of North Carolina** states:

"Limitations upon the increase of local government debt.

(2) Authorized purposes; two-thirds limitation. **The General Assembly shall have no power to authorize any county, city or town, special district, or other unit of local government to contract debts secured by a pledge of its faith and credit unless approved by a majority of the qualified voters of the unit who vote thereon, ..."**

Let me interpret this for you -

**It was the intention of the founders that no county could incur debt unless voted on and approved by a majority of the voters of the county.**

The County Commissioners have chosen a different interpretation, and that is of using **North Carolina General Statute § 160A-20**, [re: David Cotton referencing "Local Government Budget and Fiscal Control Act, 4<sup>th</sup> edition, 1988", by David Lawrence] which states:

## § 160A-20. Security interests.

a. Purchase. – **A unit of local government may purchase, or finance or refinance the purchase of, real or personal property by installment contracts... .. advancing moneys or supplying financing for the purchase transaction... , and,**

c. Accounts. – **...A unit of local government may also use other accounts, such as debt service payment accounts...**

Let me interpret this for you -

**The County Commissioners can by-pass the State Constitution and do what they damn well please.**

Furthermore, the Commissioners have been using **North Carolina General Statute § 143-318.11 Closed Sessions**, which states:

(5) **To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (I) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; ...**

Let me interpret this for you -

**The Haywood County Commissioners have been using this statute as a shield to keep the lid on the purchase of the old Walmart building from the citizens of Haywood County.**

This is not the first time commissioners have used this procedure (General Statute § 160A-20) [re: David Cotton, County Manager]. There was no public vote on the Court House Renovation, the Justice Center, or the new Law Enforcement Jail. These represent a sizable portion of our current County debt, to which \$12.5 million will be added.

## How would I have voted if this were a public vote?

Frankly, I'm neutral. I don't have a clue as to the criteria the county commissioners used for their decision. Those criteria are still bottled up in closed minutes that have not been released.

I believe that instead of asking any of the new candidates for county commissioner how they would have voted on this, it may be more appropriate to ask them if they would have put this matter before the citizens of Haywood County for a vote, and follow their recommendations and desires, rather than taking the attitude that "you elected us - we know what is best for you", as Kirkpatrick and Upton have done (who are currently running for re-election).

## Commission Meeting, March 15<sup>th</sup>, 2010

County of Haywood, North Carolina Notice of Special Information Meeting. The board called a special information meeting to discuss a loan (to be) secured from the Rural Development, United States Department of Agriculture, for the purpose of purchasing certain real property. The property involved may be encumbered to secure any loan obtained. [re: haywoodnc.net].

X. **Closed Session.** Potential Acquisition of Real Property – G.S. §143-318.11(a)(5). [re: agenda] Sorry, you don't get any information from the Commissioners at this meeting.

**\*\*\* Alert - UPDATE - Urgent! \*\*\***

I had an informative meeting with David Cotton Thursday afternoon (3/11/2010) regarding the Walmart purchase. I have since received a **copy** of an e-mail from the John Locke Foundation in Raleigh sent Friday (3/12/2010), who have taken an interest in what's happening in Haywood County. I read this letter during the public comment opportunity.

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### **[E-mail from the John Locke Foundation, 3/12/2010]**

“Thank you for your question on putting **debt up for a vote** in Haywood County.

The county plans to pay for 60 percent of the rural development loan it will take from the US Department of Agriculture with rent payments from Tractor Supply Co. and with reimbursements from the state for the Department of Social Services. **Article 5 (of the State Constitution) may be read as only applying to debt explicitly paid from taxes.** Counties sometimes use Certificates of Participation as a way to approve debt without giving voters a voice. **But no matter what form the debt takes, taxpayers are ultimately responsible to pay back debt taken on by the county.** We addressed some of these issues in a short paper, which I have attached.

Raleigh's city council recently decided to shelve plans for a public safety (project). One factor in that decision was citizen calls to put the issue on the ballot. Even after local approval, the Local Government Commission in the State Treasurer's office must also approve the county's ability to pay.

A couple questions to ask:

- What happens if Tractor Supply Co. leaves at the end of its lease?
- Will the County subsidize tenant rents?
- The state also has fiscal difficulties. What happens if it cuts reimbursement rates?”

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County Attorney Chip Killian and Chairman Kirk Kirkpatrick addressed this letter and public comments in the meeting, but are too lengthy to include here (and difficult to hear). Essentially, Chip said: “It's okay, we've been doing this for 30 years...” [re: my own recorder]. I encourage you to view the on-line video recording, because their comments probably won't show up in the minutes.

## Update - 2010 Proposed Budget

It was acknowledged by the commissioners (for the first time that I can recall at these meetings), that property values in Haywood County have declined.

No costs for the purchase of the old Walmart building will appear in the 2010 Budget [re: David Cotton, 3/11/2010, and reiterated at the 3/15/2010 meeting]. Costs will appear in the 2011 Budget. How can this be, you ask, since the closing is slated for 7/31/2010?

As best as I can understand at this point is that the Budget is kind of a fluid thing during the year. Last years budget was approved at \$64,796,424. During the year, as grants, reimbursements, etc., are received, the budget is constantly adjusted. The revised budget at the end of 2009 was \$65,858,834. As expenses start to accumulate for the renovation and purchase costs for the old Walmart building, I expect the budget will expand to accommodate those.

The commissioners (Kirkpatrick and Upton who are running for re-election) would have to be nuts to raise the tax rate in an election year. So I would expect to see the increase next year. By the way, your tax increase of 1.7 cents last year resulted in an increase of revenue to the county of \$1.173M.

## Definition of Insanity

So let me get this straight. The county already owned the land for the Haywood County Fair Grounds, run by a Fairground Association that can't make money. Now the County pencil whipped a vote to also take over the building debt, yet still run by the same Fairground Association that can't make money. Well, a definition of insanity is doing the same thing over and over and expect a different result.

## New Candidate

It is expected that Steve Davis will announce his candidacy to run for the County Commission as an Independent.

## Did you know?

A contingent from the County [David Cotton, Marty Stamey, Marc Pruett and Chip Killian] pleaded before the State Sediment Control Board in Raleigh (2/18/2010) to take over future high profile lawsuits and costs against Marc Pruett's Erosion and Sediment Control Department. My view as to prospects of the state taking those cases over defending Marc Pruett and absorbing costs ... Zero!

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