

Haywood County “Toeprints”

April 25, 2010

Vol. #1 Issue #4 (Subject: **Budget Work Session, Quarry Expansion, Release Closed Minutes.**)

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.

April 19th Budget Work Session.

A Budget Work Session was held in a small conference room at 81 Elmwood - non televised, but was recorded. Julie Davis, the Finance Director, and Marty Stamey, Assistant County Manager worked through Sunday to have documents ready for the Monday morning meeting (which was everyone’s first access to these documents). Both Julie Davis and Marty Stamey, with the cooperation from all county departments, presented a budget that nearly matches projected revenue and department expense requests (a difference of only \$738 K). Thus far, there was no reduction in force. Marty Stamey requested a second workshop in 2 weeks to have time to work on further reducing expenses. **If successful, that would imply no tax rate increase for 2010!** Kirkpatrick indicated a personnel shift or reduction might occur in those departments where there has been reduced activity due to the recession. In my view, Julie Davis and Marty Stamey have done outstanding work with this budget preparation thus far, and has made the commissioners job easier in moving to the next Work Session. I attempted to make a comment at the work session by politely raising my hand, but Chairman **Kirkpatrick** ignored me and closed the meeting abruptly. So much for **Kirkpatrick** accepting Public Input at Budget Work Sessions, as he indicated he would at the end of the Public Comment Session on March 15th, 2010. [Editors note: See **work-in-process** documents presented at the meeting and Public Comment on this Work Session on www.haywoodtp.net.]

Revaluation, April 19th Budget Work Session.

The question of revaluation came up again. David Francis, the Tax Collector, presented a summary of revaluation sales for 2009 and the 1st quarter of 2010. He has created a 730 neighborhood delinearization (i.e. breaking neighborhoods up into similarly valued homes). He indicated that those homes under \$300K were selling at higher than market, those between \$300 - \$600K were selling at about market value, and those above \$600K were selling below market value. **He recommended the that a revaluation of property be deferred until 2013 because there were not enough valid sales to continue revaluation.** However, several of the commissioners (Curtis and Swanger) appeared to be pushing a political agenda for having a revaluation sooner [re: my recorder]. Perhaps they should take the queue from the person that knows most about it - David Francis. [Editors note: the worksheet provided by David Francis has also been posted at the end of the Workshop budget **work-in-process** documents on www.haywoodtp.net].

Legal Comments - County Attorney Chip Killian.

See Haywood County Toeprints, **Special Edition**, Issue #5.

Harrison Company Quarry Expansion.

The Harrison Construction Company, Division of APAC Atlantic, Inc., applied on April 7th to DENR (Department of Environmental and Natural Resources) to expand the mining of the quarry into an existing neighborhood near Lickstone Road. Horrified citizens who received this notice appeared during the meeting and spoke during the Public Comment Session. The courtroom was as full as I had ever seen, and when Michael Rogers spoke (one of the citizens who received an official DENR notice), about half the people in the courtroom silently rose. It was a dramatic moment to let the commissioners be aware of the seriousness of the situation. It seemed to make an impact on Kirkpatrick. Issues were too numerous to list here, but included a possible direct physical hazard to public health, possible adverse effect on water supplies, noise, cracked basements, dust, declining property values, etc., etc., etc. The county commissioners will send a letter to DENR with a copy of the signatures of the people that attended the commission meeting who expressed concern.

According to Chip Killian and Marty Stamey (prior to the meeting), the county has no jurisdiction regarding mining operations. That is all decided in Raleigh by DENR.

Subsequent to the meeting, Don Mason, head of Harrison Construction Company’s environmental compliance, was quoted in the Mountaineer as saying that “the company already owns the area for which it is seeking the permit and some non-mining work is already going on in the area” [re: Mine expansion permit opposed, by Jeff Redman, 4/22/2010]. That’s interesting, because the Map Online feature on the county website www.haywoodnc.net shows that the land in question appears to belong to Floyd & Annie Conner of 315 Hall Top Road, Waynesville, NC 28786, [PIN 8603-98-5320]. Sherri Rogers, Registrar of Deeds, concurred, saying that appeared to be the case, and also walked over with me to the GIS department who also concurred. What is the arrangement? I suppose this will be flushed out with the Public Hearing, if there is one.

Residents (that would be any resident in Haywood County) have 30 days from April 7th to respond to the notice and call for a Public Hearing. One of the notices and map of the planned expansion is posted on www.haywoodtp.net.

Smoky Mountain Center / Evergreen Foundation.

It was a long day... Budget Workshop in the morning, day job, then commission meeting in the late evening, then Brian Ingraham took to the podium, CEO of Smoky Mountain Center. He wants a Re-do. You simply have to watch this on TV or the video.

New temporary County Clerk.

David Cotton (who is also the County Clerk) is absent on medical leave. During the interim, Marty Stamey will be (has been) sworn in as County Clerk. Why is it that the County Manager/Assistant County Manager also has to be the County Clerk? Is this another one of those things where “It’s okay, we have been doing this for 30 years...”? I think the commissioners should consider Rebecca Morgan, Administrative Assistant to the County Manager, for the post, as she appears qualified for the position. That could relieve some of the work load of the County Manager. What other counties have this strange arrangement?

Suggested Rules of Procedure.

County Commission meetings appear to be governed under “Suggested Rules of Procedure for the Board of County Commissioners”, 3rd Edition, by Joseph S. Ferrell.

Rule 33 states: **To the extent not provided for in, and not conflicting with the spirit of these rules, the chair shall refer to Robert’s Rules of Order (RRO) to resolve procedural questions.** RRO was designed to govern a large legislative assembly, and many of its provisions may be inappropriate for small boards. Nevertheless, it is the best source of parliamentary procedure; care should simply be taken to adjust RRO to meet the needs of small governing boards.

Closed Minutes for the old Walmart building meetings.

Rule 3. Closed Sessions, from Joseph Ferrell’s guide “Suggested Rules of Procedure for the Board of County Commissioners” states: “... the board may hold a closed session and exclude the public under the following circumstances and no others: [Section 4.] To consider and take action with respect to the position to be taken by the county in negotiating the price or other material terms of an agreement for the acquisition or lease of real property. [re: G.S. § 143-318.11(a)(5)].

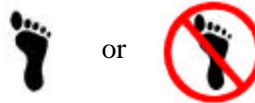
Rule 3, [Section 2] states: To consult with the county attorney or another attorney employed or retained by the county in order to preserve the attorney-client privilege. It goes on to say in the comment section: “... but the terms of any settlement ... must be reported to the board of commissioners and entered in the minutes “as soon as possible within a reasonable time” after the settlement is concluded”, i.e. release of closed minutes, which was done for the Cameron lawsuit.

The reason the commissioners used (and rightly so) closed meetings for the purchase of the old Walmart building, is that it would have otherwise placed the county at a disadvantage in negotiations for the purchase price. But the PURCHASE AND SALES AGREEMENT was signed on 1/27/2010 [re: Agreement on www.haywoodtp.net!] There are no more negotiations that can place the county at a disadvantage, because both parties now are bound by the Agreement. So it stands to reason that if the commissioners must release the minutes “as soon as possible within a reasonable time” after any lawsuit settlement is reached, they should release the closed minutes of the purchase of the old Walmart building

minutes “as soon as possible within a reasonable time” after the negotiations have been completed and an Agreement signed. It is my understanding that one more closed session is required to actually release the minutes.

The commissioners (incumbent candidates **Kirkpatrick** and **Upton**) are continuously self congratulating themselves because they know what is best for us [re: article - SMN - “Haywood commissioner candidates tackle the county’s hot-button issues”], so you would think that they would want to immediately release these minutes anyway to show the community what a good job they have done and how all this came about.


Unless the closed minutes reveal a similar fiasco as was revealed in the release of the minutes of the Cameron lawsuit [re: Released closed minutes, 9/21/2009, areas highlighted in bright yellow highlight marker, www.haywoodtp.net], I contend that any further closed meetings on the purchase of the old Walmart building (unless held for the express purpose of releasing the minutes) don’t meet the spirit or intent of “Suggested Rules of Procedure for the Board of County Commissioners” Rule 3 [Section 4] and G.S. § 143-318.11(a)(5). I’m reasonably sure that **Kirkpatrick** and **Upton** (who are also incumbent candidates) will also have the County Attorney look into this and render an **opinion** on why they are not going to release the old Walmart building closed minutes at the next county commission meeting.



Toeprint seal of Approval.

Having had a chance to observe some of the candidates running for County Commissioners, I have set a simple criteria to award a Toeprint seal of approval (or disapproval). They are:

- They seem fiscally responsible to me, and
- They would have put the Walmart debt to a citizen vote.

 Jeanne Holbrook [R]
Denny King [R]
Steve Davis [I]* (Not on primary ballot)

* (Independent collecting signatures for Nov. Ballot)

 Kirk Kirkpatrick [D]
Bill Upton [D]
Rhonda Schandavel [D]

Please make your own informed choices and vote in this very important upcoming primary election.

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