

Haywood County "Toeprints"

January 1, 2011

Vol. #2 Issue #2 (Subject: * **SPECIAL EDITION** * Released Closed Minutes - old Walmart Building.)

www.haywoodtp.net

What's Happening?

This is a **SPECIAL EDITION** of Toeprints...

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.

Happy New Year!

[Editors Note: Commissioners released large quantities of closed minutes of meetings that were withheld from the public on December 20, 2010. This **SPECIAL EDITION** covers closed minutes relating to the old Walmart Building. The format presented here will be text copied from the released minutes.]

Haywood County Board of Commissioners Closed Session Minutes, November 2, 2009, Potential Acquisition of Real Property on Paragon Parkway.

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: Attorney Steve Martin

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of Real Property on Paragon Parkway

DISCUSSION:

At the last regular Board meeting, October 19th, 2009, there was discussion regarding replacement of the roof at the Haywood County Department of Social Services (DSS) and the Haywood County Board of Education building. Dale Burris, Facilities Maintenance Director, explained that the roof membrane has shrunk, pulled away from the walls, and allowed water to penetrate the building. The estimated cost to replace the roof is \$260,000. Commissioner Swanger inquired as to the condition of the building. Mr. Burris stated that the building is in poor condition. Commissioner Swanger expressed his concern about investing this amount of money into a building in such poor condition and that other issues exist including the Americans with Disabilities Act (ADA) violations, electrical issues, heating and cooling issues, and lack of efficiency. Commissioner Swanger requested that this item be deferred to allow David Cotton, County Manager, sufficient time to provide the Board with updated financials

and options. Commissioner Swanger stated that one option to consider is the acquisition of the former Wal-Mart building. Vice-Chairman Upton stated that the windows in the DSS building need to be replaced in order to make the building energy efficient. Mr. Burris estimated that the cost to replace the windows is in excess of \$250,000. Commissioner Curtis inquired as to the annual cost of maintenance for the building. Mr. Burris stated that approximately \$11,000 a year is budgeted for repair and maintenance of the DSS building. Chairman Kirkpatrick inquired as to resolving the problems short-term. Mr. Burris stated that they have run out of short-term solutions. Chairman Kirkpatrick requested that Mr. Cotton revisit the previous option regarding the purchase of the former Wal-Mart building. Mr. Cotton stated the property owned by RCG Ventures, the former Wal-Mart building, located on Paragon Parkway, has 91,000 square feet of space available which can be leased or purchased by the County. According to Mr. Harold McCaleb, RCG Ventures Representative, they are finalizing an agreement with Tractor Supply to secure 24,000 square feet of the original space for ten years with three five-year renewal lease options. Staff confirmed that the option of securing a USDA loan is still available with a forty year-term. Julie Davis, Finance Director, clarified that the USDA loan process requires two to six months from the time the application is submitted to USDA. Mr. Cotton requested that if approved and the County purchases or leases the property, that Mr. Burris serve as the general contractor for the renovations which could save as much as 10% to 17% of the total project for construction management.

Mr. Cotton stated that the County has an obligation to the school system to provide them with office space for administration & support functions. Mr. Burris stated that approximately 18,000 square feet is needed by the Haywood County Board of Education, 65,000 square feet is needed for DSS, and 12,000 square feet is needed for the Health Department plus 2,000 square feet for dental services offered through the Health Department. All total, these square footage needs equal approximately 97,000 square feet.

Commissioner Swanger suggested the Board consider the future needs of expansion of these departments. Mr. Cotton stated that Tractor Supply plans to lease a portion of the building according RCG Ventures, which will reduce the available square footage by approximately 24,000 square feet. County Attorney Killian stated that there would be no problem leasing adjoining property next to a business such as Tractor Supply.

Mr. Cotton confirmed that the last offer made by the County to purchase the property was approximately \$6.2 million. Ms. Davis stated that the USDA loan may not be available if the County leases with the option to buy the property. The

maximum USDA loan amount is normally one million dollars. However, as part of the stimulus funding the maximum amount available has been increased and will be considered on a case by case application. Commissioner Curtis suggested the Board review all possibilities for making the purchase. Commissioner Curtis suggested looking into properties owned by the County, which may be sold and the proceeds from such sales could be used to buy down the amount to be financed by the County.

Mr. Burris stated that re-roofing the DSS facility with True Flex would cost an estimated \$100,000. Mr. Burris estimated that a new building of equal size would cost approximately \$28 million. Chairman Kirkpatrick stated that all available options need to be examined including the former Wal-Mart building. Commissioner Ensley shared that the County could add more square footage to the former Wal-Mart building in the future. Commissioner Ensley suggested that the DSS & Health Boards need to speak to the Commissioners and the citizens to express the reasons they need this building. Ms. Davis shared that the debt service is approximately \$700,000 with a net debt service of \$450,000, annually.

Chairman Kirkpatrick urged the Board to carefully consider all available options. After discussion the Board agreed that Mr. Cotton would discuss with RCG Ventures the purchase price of \$4.75 million for the former Wal-Mart building and land.

Some Comments...

- Appears that **Swanger** first brought up the concept of purchasing the old Walmart Building.
- If “Commissioner Swanger expressed his concern about investing this amount of money into a building in such poor condition and that other issues exist including the Americans with Disabilities Act (ADA) violations, electrical issues, heating and cooling issues, and lack of efficiency”, then why is it that he thought it was a good idea at the last commission meeting to say: “**Commissioner Swanger made a motion to authorize the Chairman and Interim County Manager to enter into an agreement with Fitch Development Group to sell the old Haywood County Hospital property, not including the excess parking and Smoky Mountain Center building, to be identified by a current survey, for a sales price of \$1,275,000 for use and development as elderly housing involving certification as a historic site, award of tax credits by the N.C. Housing Finance Agency, zoning changes together with a public loan of \$159,000, the contract to be subject to the upset bid procedures set forth under G.S. Section §160A-269. Commissioner Curtis seconded and the motion carried unanimously.”** [re: Toeprints, Issue #26].
- Tractor Supply appears to have a ten (10) year lease with three five year renewal options.
- Mr. Cotton requested that if approved and the County purchases or leases the property, that Mr. Burris serve as the general contractor for the renovations which could save

as much as 10% to 17% of the total project for construction management. Whoa! Isn’t there a potential for some kind of conflict of interest in having Dale Burris serve as the general contractor? Will he get paid extra for that? Considering the renovation cost is now in the order of \$6M, that would represent a savings of about \$1M. If I were Dale Burris, I would want some of that money.

- Mr. Cotton confirmed that the last offer made by the County to purchase the property was approximately \$6.2 million. Whoa! What last offer? Who made the offer? Who authorized the County to make an offer?
 - Commissioner Ensley suggested that the DSS & Health Boards need to speak to the Commissioners and the citizens to express the reasons they need this building. Would have been nice if this was ever discussed with citizens and Taxpayers.
- *****

Haywood County Board of Commissioners Closed Session Minutes, November 16, 2009, Potential Acquisition of Real Property on Paragon Parkway.

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

MEMBERS ABSENT: Charles "Skeeter" Curtis

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, Department of Social Services Director Ira Dove, Health Director Carmine Rocco, Facilities Maintenance Director Dale Burris and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: none

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of Real Property on Paragon Parkway

DISCUSSION:

Ira Dove, Department of Social Services (DSS) Director, stated that funding for an improved facility has been a top priority for DSS. The present facility is inadequate according to the State. Several issues of concern include conducting business and interviews with little or no privacy as well as security at the facility. These issues are due to lack of space.

David Cotton, County Manager, presented a schematic drawing of the former Wal-Mart facility. The drawing depicted the space that would be leased by Tractor Supply. Large garden equipment and tractors would be on display in the parking lot. County Attorney Killian stated that maintenance of the parking lot would have to be agreed upon if the County purchases the building. Mr. Cotton confirmed that a portion of the lease requires proper maintenance of the parking lot.

Carmine Rocco, Health Director, stated that the Health Board is in favor of moving forward with the potential acquisition of the former Wal-Mart building. Mr. Rocco stated that lack of windows in the facility may be of concern to some employees, but the need for space is critical. Mr. Rocco shared that he

and the Health Board are excited about the possibility of relocating.

Dale Burris, Facilities Maintenance Director, explained the possibility of adding approximately 7,500 to 8,000 square feet, as a second level near the front of the facility.

Mr. Cotton shared that according to Mr. Harold McCaleb, RCG Ventures Representative, the offer from RCG Ventures to sell the facility for \$6.8 million.

The Board agreed to allow Mr. Cotton to engage RCG Ventures to explore the possibility of purchasing the former Wal-Mart building. However, the Board stated that RCG must demonstrate their commitment of selling the former Wal-Mart building and land in order to continue with negotiations on the potential purchase. This commitment must be shown in terms of the sales price.

Some Comments...

- Looks like Ira Dove and **Carmine Rocco** got to attend this meeting. Unfortunately, Kevin Ensley's request was dismissed, and the citizens did not.

Haywood County Board of Commissioners Closed Session Minutes, December 7, 2009, Potential Acquisition of the former Walmart building.

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

MEMBERS ABSENT: Charles "Skeeter" Curtis

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

OTHERS PRESENT: none

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of the former Walmart building

DISCUSSION:

Dale Burris, Facilities Maintenance Director, presented his findings of the comprehensive inspection made on December 3rd, 2009. Mr. Burris reported finding eleven areas of concern. Mr. Burris presented photos of the findings. There are three areas of wall separation. Mr. Burris reported that future addition(s) is feasible. There is approximately 5,600 square feet of space, presently. Mr. Burris recommended considering solar roof panels on the roof and explained skylight, tunnel light, 10 x 10 skylights with lens, and the possibility that the ceiling tiles could be recycled. **David Cotton, County Manager**, stated that an investment on a new roof on this building makes better sense than a new roof on the existing Department of Social Services building. Mr. Burris stated that the roof is approximately twenty years old.

After discussion the Board agreed to authorize Mr. Cotton to offer \$6.2 million with the building "as is".

Some Comments...

- This is the meeting that the commissioners decided to increase county debt without voter approval.

Haywood County Board of Commissioners Closed Session Minutes, December 28, 2009, Potential Acquisition of the former Walmart building.

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 B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, **Facilities Maintenance Director Dale Burris**, Finance Director Julie Davis, Administrative Assistant Rebecca Morgan.

OTHERS PRESENT: none

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of the former Walmart building

DISCUSSION:

David Cotton, County Manager, stated that the offer of \$6.2 million with the building "as is", was made to the owners of the former Wal-Mart building. A counter offer was received for \$6.8 million with the owners putting a new sealer on the roof. The sealer would have a five year warranty. **Mr. Cotton** stated that the owners are requesting that any offer from the County be such that in the event that an USDA loan falls through, the County would finance it another way. Mr. Cotton stated that the County would likely have to get a fifteen year conventional loan.

Dale Burris, Facilities & Maintenance Director, stated that he has reviewed the phase one environment study as noted in the eighty-eight page report which he presented at the last closed session meeting, December 7th, 2009. Mr. Burris explained that the **asbestos and the lead paint** must be inspected and analyzed before any construction on the building can occur. **Mr. Burris** explained that unless the lead based paint is actually disturbed during construction lead base paint is not harmful. The easiest solution to lead base paint is to simply to paint over it. Mr. Burris stated that there are no signs of an environment impact. There was a report in the area of the film processing area. Mr. Burris reported that the water has been tested by the Junaluska Sanitary District.

County Attorney Killian asked if we should do a phase two.

Julie Davis, Finance Director, stated that a USDA loan would be easier to obtain than a fifteen-year conventional loan. Ms. Davis confirmed that she would review any requirements for a phase two. Mr. Davis explained the need to present the application for an USDA loan within the next week in order to reserve the money. **Ms. Davis** stated that prior to applying for the USDA loan, it is important to have a good estimate as to the amount of loan needed for this purchase.

Mr. Cotton stated that there was an estimate of \$840,000 to replace the roof. Commissioner Swanger expressed concern for the twenty-year old heating and air conditioning units and inquired as to a pitch roof without air conditioning units.

Mr. Burris stated that if the County is designing a greener building, the standard galvanized roof is recommended. Mr. Burris said the state requires an engineer, but not a phase two environmental assessment of the building. Commissioner Swanger requested that Mr. Burris provide an estimate for a pitched roof. Commissioner Curtis inquired if there was a separation for another occupancy, Tractor Supply. Mr. Burris answered that by code there must be a separation for their own utilities and the two occupants must be separated by firewall.

After discussion the Board requested Mr. Cotton to resolve these questions. Ms. Davis expressed the need to have the exact number of dollars the County would request for the USDA loan application.

Some Comments...

- "...the phase one environment study as noted in the eighty-eight page report which he presented at the last closed session meeting, ..." There is an 88 page report floating around someplace.
- It was the owners who had the requirement for alternate financing placed in the Sale and Purchase agreement [re: Purchase and Sale Agreement, www.haywoodtp.net, the one where the commissioners ignored the closing date of July 31, 2010 because they were unable to secure financing from the USDA by that date].
- "...asbestos and the lead paint ..." ??? Does the old Walmart Building have asbestos and lead paint! According to Dale Burris, "The easiest solution to lead base paint is to simply to paint over it." Mr. Burris explained that unless the lead based paint is actually disturbed during construction lead base paint is not harmful. Unfortunately, it doesn't appear as though Dale Burris is going to be appointed the general contractor, so who is going to watch the painters and everyone else in the building to take care that the lead based paint is not actually disturbed?
- "...Ms. Davis stated that prior to applying for the USDA loan, it is important to have a good estimate as to the amount of loan needed for this purchase...." Cotton was given the go-ahead to make the (second) offer on the building, and no one knew what the renovation cost was going to be?

Haywood County Board of Commissioners Closed Session Minutes, January 4, 2010, Potential Acquisition of the former Walmart building.

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 B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Facilities Maintenance Director Dale Burris, Finance Director Julie Davis, Administrative Assistant Diane Fitzgerald

OTHERS PRESENT: Pam Hysong, Area Specialist with the USDA Rural Development, via telephone

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of the former Walmart building

DISCUSSION:

David Cotton, County Manager, stated that RCG Ventures has agreed to deduct \$120,000 from the counter offer of \$6.8 million for the resealing of the roof, making the purchase price \$6,680,000.

Dale Burris stated that he has spoken to NEO Corporation regarding the asbestos remediation and learned that NEO Corporation is available when needed. Mr. Burris also stated that the deadline for receiving the architect's quotes has been set for January 15th, 2010.

Commissioner Swanger asked about the other party that was interested in putting a movie theater in the building. Mr. Cotton stated that the buyer is interested in only part of the building which would leave approximately sixty thousand square feet still available. Mr. Cotton explained that if the County were to "share" the building space with the theatre, the theatre would most likely want the front entrance of the building.

Commissioner Swanger asked how long it would take to secure the USDA loan. Julie Davis, Finance Director, stated that it could take anywhere from two to six months. Chip Killian, County Attorney, stated that per the contract, the County is obligated to close between July 1st and July 31st, 2010. County Attorney Killian stated that RCG Ventures could sue the County for damages if the County did not have the funding within the stated time frame. There was great concern by the Board regarding the closing dates and not having secured a loan. Mr. Cotton stated that the owners are requesting any offer from the County be such that in the event that an USDA loan falls through, the County would finance it another way.

Julie Davis explained the need to present the application for a USDA loan as soon as possible in order to reserve the money. Commissioner Ensley asked Ms. Davis if she were confident that the County would receive the USDA loan. Ms. Davis replied that in speaking with Pam Hysong, Area Specialist with the USDA Rural Development, during the latter part of December 2009, Ms. Hysong expressed a high percentage for chance of approval if the funds were still available.

Chairman Kirkpatrick asked if Ms. Hysong could supply names of Washington staff / representatives the Board could speak to regarding the USDA loan. Ms. Davis confirmed that she had telephoned Ms. Hysong and left a message with her.

Commissioner Curtis suggested that all the Commissioners send letters to Governors and Senators asking for support (no form letters). Commissioner Curtis also suggested that we send Representatives to Washington to stress the importance of this loan. Commissioner Curtis expressed his concern with the fact that the County has a closing deadline and no secured loan. Ms. Hysong returned Ms. Davis' call. Ms. Hysong was put on speaker phone and Commissioner Kirkpatrick inquired as to how long it would take for the USDA loan to be approved for the County. Ms. Hysong estimated approximately five months after application was made by the County.

Commissioner Kirkpatrick asked Ms. Hysong the likelihood of approval of the loan. Ms. Hysong asked the value of the loan and Ms. Davis replied \$11.5 million. Ms. Hysong stated that she would not be making the decisions, however she did not see any conflicts concerning the loan and feels there is a 90-95% chance of approval providing the funds are still available.

Mr. Cotton stated that the County cannot make application until a response from the Architects is received, which will take approximately two weeks. Mr. Cotton was asked to advise the seller that the County agrees on the \$6,680,000 amount and also to inquire about extending the closing date.

Some Comments...

- “...County Attorney, stated that per the contract, the County is obligated to close between July 1st and July 31st, 2010. County Attorney Killian stated that RCG Ventures could sue the County for damages if the County did not have the funding within the stated time frame. There was great concern by the Board regarding the closing dates and not having secured a loan. Mr. Cotton stated that the owners are requesting any offer from the County be such that in the event that an USDA loan falls through, the County would finance it another way....” This meeting was January 4th, 2010, and the Buyer did not execute the contract until January 27th, 2010. That means that the architects estimate should have been turned in and the USDA loan applied for by that January 27th date. The county was exposed to a (another) lawsuit if the USDA loan was not approved by July 31st, which, in fact, it was not.
- “...Commissioner Curtis suggested that all the Commissioners send letters to Governors and Senators asking for support (no form letters). Commissioner Curtis also suggested that we send Representatives to Washington to stress the importance of this loan. Commissioner Curtis expressed his concern with the fact that the County has a closing deadline and no secured loan....” How is it that the commissioners can send letters out to Representatives in Washington to stress the importance of this loan, and not bother to keep the Taxpayers of Haywood County in the loop in all of this?
- “...Ms. Hysong asked the value of the loan and Ms. Davis replied \$11.5 million....” Where did the value of \$11.5M

come from?

***** Haywood County Board of Commissioners Closed Session Minutes, January 13, 2010, Potential Acquisition of the former Walmart building.

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 B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. “Chip” Killian, III, Facilities Maintenance Director Dale Burris, Finance Director Julie Davis, Public Information Officer David Teague, Health Director Carmine Rocco, Department of Social Services Director Ira Dove, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: none

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of the former Walmart building

DISCUSSION:

David Cotton, County Manager, stated that since the last closed session, January 4th, 2010, RCG Ventures has made a counter offer with additional stipulations and that the last offer received from RCG Ventures was \$6,680,000. The County would get title insurance. County Attorney Chip Killian explained that he would go back to the deed when they assembled the property. The County has a summary of terms. County Attorney Killian stated that legal fees would be approximately \$10,000 for the closing, including title examination and construction contract issues.

Dale Burris, Facilities Maintenance Director, stated that Neo Corporation performed testing on the building. Lead base paint is negative. There is no asbestos. Mr. Burris explained that Tractor Supply has signed the lease agreement.

After discussion the Board asked Mr. Cotton to contact RCG Ventures and inquire if they would accept \$6.5 million. Mr. Cotton telephoned RCG Ventures. After approximately fifteen minutes, RCG Ventures telephoned and stated that they would accept \$6,680,000 and add a new roof on the building with a ten-year warranty. After discussion the Board inquired if RCG Ventures would accept \$6.6 million for the purchase price, without the additional roof. Mr. Cotton telephoned RCG Venture again. Their response was positive for the \$6.6 million.

David Teague, Public Information Officer, handed out a prepared draft public announcement. The Board reviewed the announcement.

Carmine Rocco, Health Director, and Ira Dove, Department of Social Services Director, were advised to draft schematic drawings of space needs for the two departments.

Some Comments...

- \$6.6M final agreed price by RCG Ventures.
- "...David Teague, Public Information Officer, handed out a prepared draft public announcement. The Board reviewed the announcement...." This is the first time Taxpayers get to hear about this purchase (increase of county debt without a public vote).

Haywood County Board of Commissioners Closed Session Minutes, January 19, 2010, Potential Acquisition of the former Walmart building.

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 B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Facilities Maintenance Director Dale Burris, Finance Director Julie Davis, Department of Social Services Director Ira Dove, and Administrative Assistant Rebecca Morgan

OTHERS PRESENT: none

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of the former Walmart building

DISCUSSION:

David Cotton, County Manager, stated that RCG Ventures has presented three Restricted Easement Agreements (REA) which outlines all parties of upkeep of building. RCG Ventures is responsible for the signage. Site plan does not change. RCG Ventures asked regarding the jog or walk between the building and Rent-A-Center to tidy the line.

Chip Killian, County Attorney, presented for review a supplemental terms and conditions of purchase and sale agreement. County Attorney Killian stated that under number 7, it reads that section 11(v) of the original agreement would be deleted in its entirety. County Attorney Killian explained that that section was in regards to title endorsements and that RCG Ventures wants to take it out of the offer to purchase. Another change that RCG Ventures requested to the original agreement is in regards the subdivision. There are no restrictions. County Attorney Killian said it has to be insured. Most lenders require these endorsements. Under paragraph 11, RCB Ventures requested deleting the entire section so that the County would buy the property "as is".

Dale Burris, Facilities Maintenance Director, stated that in regards to the environmental assessments and what may be up to code, he does not see it as a stumbling block to purchase. Mr. Burris stated that the HVAC needs to be upgraded to bring it up to date, but that the building is structurally sound. NEO Corporation conducted asbestos and lead paint analysis of the structure, including the roof. Fifty-nine samples were taken from the interior and exterior walls, the door pettitions, etc. and it all came back negative.

The storm drainage seems to be draining well. There is run off which goes to the back into a bio-retention pond.

Mr. Cotton presented Exhibit A - Addendum regarding the property subdivision and the prior property line. Mr. Cotton explained that all parking will be open to all. The County would have the ability to make an out parcel on the common area. The area the County is proposing to purchase is a fifteen acre tract.

Commissioner Swanger stated that if we work out the REA it could take sixty days and that Julie Davis, Finance Officer, must apply for the USDA loan within thirty days. Ms. Davis explained that the County can make the application for USDA once there is an agreement. Commissioner Curtis stressed the importance that actions taken would be approved for a USDA loan.

After discussion the Board agreed that after the work session scheduled for January 27th, a special meeting could be held in order to approve the offer to purchase.

Some Comments...

- Tests proved no asbestos or lead paint problems!
- USDA application still pending at this point.
- Work Session on January 27th? I don't recall a publicly announced work session.

Haywood County Board of Commissioners Closed Session Minutes, January 27, 2010, Potential Acquisition of the former Walmart building.

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 B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Facilities Maintenance Director Dale Burris, Health Director Carmine Rocco, Finance Director Julie Davis, Administrative Assistant Rebecca Morgan

OTHERS PRESENT: Harold McCaleb, with RCG Ventures, via telephone

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of the former Walmart building

DISCUSSION:

Dale Burris presented a printout of the former Walmart building indicating the location of the sewer. The sewer is located near Burger King. David Cotton, County Manager, stated that he would discuss the sewer lines with the Lake Junaluska Assembly Sanitary District.

Mr. Cotton presented a purchase agreement. County Attorney Leon M. "Chip" Killian reviewed the purchase agreement

with the Board. County Attorney Killian explained that under North Carolina State Statute, any and all lease agreement(s) made with the County are public records. RCG Ventures has indicated that the lease agreement with Tractor Supply is confidential and cannot be made public. Mr. Cotton stated that if the County receives a public records request regarding the lease agreement with Tractor Supply, the County must honor that request. Commissioner Curtis stated that at this time the County does not have the lease agreement with Tractor Supply. Commissioner Curtis urged the Board to review that lease agreement. Another issue discussed was the approval for a parcel and potential endorsement.

Harold McCaleb, with RCG Ventures was contacted via telephone. Mr. McCaleb explained that any endorsement of a parcel by another vendor must first be approved by those occupying the building. Mr. McCaleb shared that a previous lease agreement with Tractor Supply, in Tennessee, was treated with great confidentiality as required by Tractor Supply. Mr. McCaleb stated that it is doubtful that Tractor Supply would allow their lease agreement to be made public. Mr. McCaleb stated that he would contact the Board after he further reviews this issue.

Julie Davis, Finance Director, stated that it is not appropriate to apply for the USDA loan without a contract.

Some Comments...

- This is the date that the Purchase and Sale Agreement was signed by **Cotton** and **Kirkpatrick**.
- The Seller did not sign the contract until February 10, 2010, so the application for the USDA loan had to wait until then to be processed by the county.
- "...County Attorney Killian explained that under North Carolina State Statute, any and all lease agreement(s) made with the County are public records. RCG Ventures has indicated that the lease agreement with Tractor Supply is confidential and cannot be made public. Mr. Cotton stated that if the County receives a public records request regarding the lease agreement with Tractor Supply, the County must honor that request...." The Tractor Supply lease will be posted on www.haywoodtp.net when made available by the county, so that it can be reviewed by the Taxpayers of Haywood County.

Administrative Assistant Rebecca Morgan

OTHERS PRESENT: none

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Potential Acquisition of the former Walmart building

DISCUSSION:

Chip Killian, County Attorney, stated that the County has a signed contract from RCG Ventures. County Attorney Killian explained that after the County purchases the property, Tractor Supply may be subject to public records requests. Until the purchase, all legal fees will be shared by Tractor Supply in the event of litigation. County Attorney Killian stated that the County has given the first round of deposit. The County will get started on the Restricted Easement Agreements (REA). Commissioner Swanger urged that landscaping be part of the REA. Julie Davis, Finance Officer, stated that she sent the U.S. Department of Agriculture (USDA) loan application.

Dale Burris, Facilities Maintenance Director, presented an update report on the architect. A meeting to discuss floor plans is scheduled on February 22nd, 2010.

Some Comments...

- Tractor Supply now subject to public records request, now that contract is signed.

- USDA application filed.

Haywood County Board of Commissioners Closed Session Minutes, March 15, 2010, Acquisition of the former Walmart building.

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

OTHERS PRESENT: none

GENERAL STATUTE: Acquisition of Real Property §143-318.11(a)(5)

SUBJECT: Acquisition of the former Walmart building

DISCUSSION:

Chip Killian, County Attorney, presented the declaration of easements, covenants, and restrictions. These were prepared by Attorney John Griels and modified by County Attorney Killian. County Attorney Killian also presented the purchase and sale agreement between RCG, Waynesville and Haywood County. The Board reviewed these documents. County Attorney Killian explained that Tractor Supply is scheduled to open on March 27th.

Haywood County Board of Commissioners Closed Session Minutes, February 15, 2010, Potential Acquisition of the former Walmart building.

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 B. Cotton, Assistant County Manager Marty Stamey, County Attorney Leon M. "Chip" Killian, III, Facilities Maintenance Director Dale Burris, Finance Director Julie Davis, and

Some Comments...

- This was the last of the closed minutes that were distributed regarding the purchase of the old Walmart Building.

What do you think the percentage is of receiving answers to any of these questions from our County Commissioners?

[Hint: 0%].

[Legend: If any name is in **bold**, it can't be a good thing.]

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