

Haywood County "Toeprints"

February 20, 2011

Vol. #2 Issue #8 (Subject: * **SPECIAL EDITION** * Released Closed Minutes - County.)

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.

[Editors Note: Commissioners released additional closed minutes of meetings. This bulk load of minutes were released during the closed session at the February 7, 2011 County Commission Meeting. Some of these minutes go back to 2006! What the ??? How many more of these dormant closed session meetings are sitting around that need to be released? Several of the topics of the released closed minutes dealt with "Personnel". These were not requested, but leave that to the interested reader to follow up. The minutes from November 6, 2006 have been requested, but not received before this edition was completed.]

The following is a list of minutes released at the 2/7/2011 meeting:

- June 9th, 2006, Personnel, approved and released
- June 19th, 2006, Personnel, approved and released
- June 9th, 2006, Personnel, approved and released
- June 19th, 2006, Personnel, approved and released
- November 6th, 2006, Economic Development, approved and released
- November 6th, 2006, proposed property purchase near Tuscola High School, approved and released
- December 17th, 2007, Potential Litigation, released
- October 20th, 2008, potential litigation, released
- January 20th, 2009, potential litigation, released
- February 16th, 2009, potential litigation, released
- September 8th, 2009, potential litigation, released
- October 5, 2009, Potential Litigation, released
- November 2nd, 2009, potential litigation, released
- January 12th, 2011, personnel, approved, but not released

HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES, DECEMBER 17, 2007
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,
County Attorney Leon M. "Chip" Killian, III

OTHERS PRESENT: Administrative Assistant Rebecca
Morgan

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

SUBJECT: Potential Litigation

DISCUSSION: County Attorney Leon M. "Chip" Killian, III presented a draft of a complaint for declaratory judgment against Gregory Todd Ferguson. This action would be brought by Sam Underwood, as guardian of the estate of Lucius Jones and by Haywood County. On or about September 13th, 2001, a document styled "Lease Agreement" was apparently signed, indexed and recorded and purports to have been entered into by and between Jones as Owner or Lessor and Ferguson as Tenant or Lessee. The Lease Agreement also contains a document entitled "General Agreement" which purports to convey the Property to Ferguson upon Jones' death, and a document entitled Notice of Lease which was properly acknowledged for recording. Neither the Lease nor the General Agreement portion were properly acknowledged for recording. Ferguson failed to pay rent as required by the Lease Agreement, causing him to be in default under the Lease Agreement. After Ferguson failed to pay rent as required by the Lease Agreement, Jones brought an action to evict Ferguson from the Property. On April 12th, 2002, Ferguson was ordered ejected from the Property for failure to pay rent and was ordered to pay nine months' back rent to Jones. Since at least April 23rd, 2002 and continuing to the present, Ferguson has not paid to Jones any rent or any of the judgment entered against Ferguson for unpaid rent under the Lease Agreement. On August 30th, 2007, Lucius Jones sold approximately 22 acres of property to Haywood County in a Judicial Sale.

The County Attorney stated that no one seemed to know of the existence of the General Agreement which was recorded as part of the Lease, which he found about during the title search. The cost of the lawsuit will be paid by the Jones Estate.

County Attorney Killian stated that a lawsuit will be filed. At this time the whereabouts of Mr. Ferguson are unknown. As written it would have the effect of a will but didn't contain two witnesses and didn't otherwise state it was a will.

HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES, OCTOBER 20, 2008
MEMBERS PRESENT: Chairman Larry Ammons, Vice-Chairman Kirkpatrick, Bill L. Upton, Commissioner 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, Attorney Reed Hollander, 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 - Wyncom
DISCUSSION: David Cotton, County Manager, explained that the current contract with Wyncom was signed six days prior to his employment with Haywood County. After reviewing the long distance carrier Wyncom, Mr. Cotton learned that the County pays one fee for outgoing and incoming charges. The County purchased some equipment that was expected to be compatible with the technological system the County owned. Recently, it was learned that telephone companies stopped installing this equipment ten years ago and the equipment is not the same as agreed upon.

Attorney Reed Hollander is an expert regarding contract options. Attorney Hollander advised that the County could write a letter to Wyncom asking them to either pay the County for unsubstantiated charges or comply with the agreement. Mr. Cotton received a notification from Wyncom stating that they have given the County everything that was agreed upon and that we have the correct system.

Mr. Cotton spoke with Jimmy Wynn of Wyncom, who advised that the County has everything expected. Mr. Cotton stated that we are paying \$20,000 - 40,000 more than necessary for monthly telephone services. Last month the charges should have been \$5,000 - 6,000. Attorney Hollander advised that he will review materials received from Wyncom and advise the County of the best legal strategy.

Mr. Cotton stated that Wyncom is strictly for billing purposes. County Attorney Killian explained that Advantage West received a grant and the County and the County became a part of that grant.

Attorney Hollander stated that any necessary equipment the County installs at this time would not negatively affect the contract with Wyncom. Mr. Cotton explained that an additional \$200,000 was required for the 911 calls. Mr. Cotton expressed that the County needs to get the right system and hold Wyncom accountable.

Comment: Reed Hollander, the "expert regarding contract options", as you might remember, was the brilliant lawyer from Nelson Mullins (same law firm as our County Attorney, **Chip Killian** [D], a.k.a. **Leon Killian**), who represented the County when it lost the Cameron Lawsuit because **Marc Pruett** [D] trampled on the Cameron's due process rights.

Bob Meynardie, is now the lawyer representing the County in the litigation with the KDM lawsuit.

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, and Administrative Assistant Rebecca Morgan
OTHERS PRESENT: none
GENERAL STATUTE: Litigation §143-318.11(a)(3)
SUBJECT: Potential Litigation - Wyncom
DISCUSSION: David Cotton, County Manager, recommended sending a letter to Wyncom requesting a time to discuss issues regarding the phone system. County Attorney Killian stated that the letter should include great detail of the complaint Haywood County has with Wyncom. The Information Technology (IT) staff has been working diligently to make the telephone system as efficient as possible.

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, Finance

Director Julie Davis, and Administrative Assistant Rebecca Morgan
OTHERS PRESENT: none
GENERAL STATUTE: Litigation §143-318.11(a)(3)
SUBJECT: Potential Litigation - Wynncom
DISCUSSION: David Cotton, County Manager, stated that letters to Wynncom, MiCom and Graybar have been written stating that Haywood County has a claim against them. The County is seeking damages and remedies to terminate the contracts with all parties. The letters indicate our desire to mediate. The Board recommended sending the letters with instructions that they have ten days to respond.

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 - Wynncom
DISCUSSION: County Attorney Killian stated in regard to the litigation with WynnCom and MiCom, the County is negotiating with the Defendants for the selection of an acceptable mediator. County Attorney Killian explained that he is searching for a mediator locally, but he does know one in Charlotte. Chairman Kirkpatrick stressed the importance of having a mediator who understands the issues. After discussion the Board agreed that County Attorney Killian should contact the mediator in Charlotte and discuss the case with him.

HAYWOOD COUNTY BOARD OF COMMISSIONERS
CLOSED SESSION MINUTES, OCTOBER 5, 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 / 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: Potential Litigation - Huskey
DISCUSSION: County Attorney Killian stated that the attorney for the Huskey Estate requested the Sheriff's Office report, which includes photos, and a report summary of the incident which occurred at the landfill.

There must be a subpoena or other court order to receive a copy of that report, but there must be a suit in order to get a subpoena. Lee Davis is the attorney assigned to the case by Traveler's Insurance, which is the County's Liability Insurance Carrier. In general discussions, it has been determined that a final decision will not be made until we have received all related documents, which will allow for a comprehensive evaluation of the accident.

Day Counter for Mountaineer and SMN.
This feature will show the days since 1/1/2011 [county commission released closed minutes posted on www.haywoodtp.net] since either The Mountaineer or the Smoky Mountain News has said a single word about the Haywood County Fairgrounds Arena Building fiasco.

- The Mountaineer 51 days
- Smoky Mountain News 51 days

[Legend: If any name is in **bold**, it can't be a good thing. Brackets following a name in **bold** with [D], [R], or [U] denote the individuals party affiliation, **D**emocrat, **R**epublican or **U**naffiliated. re: Haywood County Election Office - all voters 11/18/2010.]

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