

## Haywood County “Toeprints”

September 29, 2011

Vol. #2 Issue #27 (Subject: Quarry Update, Choice Quotes, Informal Complaint Update)

[www.haywoodtp.net](http://www.haywoodtp.net)

### 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, along with a colorful assortment of lawyers opinions related to the KMD wrongful termination - **Bob Meynardie, Chip Killian, Leon Killian and Kirk Kirkpatrick.**

### Quarry Update - Asphalt plant upgrade.

Todd Quigg, President of APAC - Harrison, provided updated plans for upgrading the current asphalt plant near the entrance to the quarry. He indicated:

“Last time we met, I told you I was waiting on two key steps to be completed before we submit for a new asphalt plant permit. One, was air flow modeling and we have that complete. The other was approval for the monies to purchase a new plant, which I do not have yet, but expect in the next couple of weeks. So, with that said, we are now ready to submit to NCDENR for approval our plan to upgrade the Waynesville asphalt plant. As this is just a replacement rather than a new permit, I am not certain of all of the technical things that must be done; however, I do know that DENR must approve all of those technical things.

I believe that this upgrade will make us a better neighbor to the Allen’s creek community.

The section that regulates asphalt plants is air quality, which is different than land quality that governs quarries. However, water quality does have requirements that we must meet. Again, forgive me I am not the technical expert on how they regulate, but I have people who know. I know that we had to run a notice in the newspaper and we have done this, I am not certain that this requires letters to neighbors. I will check and let you know.

We are moving across the road with the plant and turning the plant site into retention ponds that will hopefully put a buffer between us and neighbors.”

### Choice quotes from the Released Closed Minutes...

The complete set of released minutes are on [www.haywoodtp.net](http://www.haywoodtp.net), [Released Closed Session Minutes, 2007-2011, Historic Courthouse - KMD Wrongful Termination. 9/21/2011...](#) .

These are a few of the choice quotations from various folks throughout these closed sessions that lead to the county coughing up \$1.5M in taxpayer dollars.

9/10/2007 - “**Mr. Cotton** shared that the architects are doing a tremendous job with the construction.”

5/5/2008 - “**Mr. Noland** recommended terminating KMD Construction.” (**William “Bill” Noland**, with Noland Construction Consulting, LLC.)

“County Attorney **Leon M. “Chip” Killian** stated that the County has already prepared them [the Board] for this probable litigation.”

6/16/2008 - “Vice-Chairman **Kirkpatrick** raised reservations about KMD Construction’s ability to complete the project.”

6/30/2008 - “Vice-Chairman **Kirkpatrick** reiterated that the County could not give KMD Construction any authority on this project. Chairman **Ammons** agreed and stated that in his opinion, KMD Construction has committed fraud.”

7/7/2008 - “Commissioner **Enloe** stated her opposition to allowing KMD Construction on the site of the historic courthouse property. Commissioner **Upton** also expressed concern regarding KMD Construction being on site.”

7/21/2008 - “Attorney **Meynardie** stated that there is no evidence that KMD Construction performed in a manner to intentionally harm the County.”

8/4/2008 - “Commissioner **Enloe** stated that the Surety is insisting on using the contractor that the County fired, and therefore, she will vote against the motion as a matter of principle.”

10/7/2008 - “Attorney **Meynardie** explained that the owner is responsible for costs that arise due to unforeseen conditions during renovation of the historic courthouse since these were not discovered until after the time of the contract.”

11/3/2008 - “County Attorney **Killian** recommended that even though Attorney **Bob Meynardie**, is no longer with Nelson, Mullins Riley and Scarborough, he should remain involved with the renovation project.

1/20/2009 - "Mr. **Cotton** explained that a letter requesting additional fees has been received from PBC+L.... County Attorney **Killian** explained that the amount requested is \$101,028 in additional compensation."

8/3/2009 - "Attorney **Meynardie** stated that he feels very confident about the County's position."

12/7/2009 - "The surety owes the subcontractors approximately \$325,000, which the County as agreed to pay directly to the subcontractors."

6/7/2010 - "County Attorney **Chip Killian** stated that there is a three-person panel. Chairman **Kirkpatrick** stated that the decision of the panel is final.

2/21/2011 - "Attorney **Meynardie** advised the Board that after careful review, his findings are that the County had just cause to terminate. ... Attorney **Meynardie** stated that the County could be out as little as \$110,000."

"Vice-Chairman **Kirkpatrick** stated that had PBC+L done their job the County would not have needed to hire Mr. **Noland**."

"**Dale Burris**, Facilities and Maintenance Director, stated that he kept a log of the hours he worked with Mr. **Noland** on this project and inquired if the Board was willing to compensate him."

6/6/2011 - "Attorney **Meynardie** expressed an opinion that the case against KMD is strong and that KMD Construction was not delayed by the identified unforeseen conditions."

End of choice quotes from the Released Closed Minutes.

Don't forget to reread the findings of the Arbitration Board, now that you have read the background, also found on [www.haywoodtp.net](http://www.haywoodtp.net), [County Loses \\$713,057.06 in Legal Arbitration Expenses with KMD + Legal Expenses \(nearly \\$1/2 Million\), 8/02/2011. 8/10/2011...](#)].

This episode cost Haywood County -

**\$713,057.06 + \$578,000 + 241,000 = \$1,532,057.06**

[re: "The settlement award doesn't include the \$578,000 in legal fees paid to date or \$241,000 in engineering consultant fees incurred by the county that's over and above the \$7 million project.", [County considers options in arbitration award, Discussion with architect is next step, By Vicki Hyatt, Aug 17, 2011, The Mountaineer](#)].

### **Informal Complaint, Update.**

An informal complaint against **David Francis**, Haywood County Tax Collector, and the **Five County Commissioners** has been submitted to state agencies to determine if the advancement of a new countywide reappraisal is warranted. The Informal Complaint was sent to Beth Wood, State Auditor, and my "package" was hand carried from Beth Wood's Department of State Auditor's Special Investigations Division on August 18<sup>th</sup>, 2011, to Sharon Edmundson's desk. Sharon Edmundson is the Director, Fiscal Management, **NC Department of State Treasurer**, State and Local Government Finance Division and The Local Government Commission. It took her a little over a month (33 days) for her to respond to me to tell me that she does not have jurisdiction in property valuation. See [Open Letter - Response to Sharon Edmundson, LGC, who responded to my Informal Complaint \(Long download\). 9/25/2011...](#), on [www.haywoodtp.net](http://www.haywoodtp.net).

The Informal Complaint has now been posted on [www.haywoodtp.net](http://www.haywoodtp.net), in the above link.

### **Day Counter for Mountaineer and SMN.**

This feature shows the days since 3/30/2011 since either The Mountaineer or the Smoky Mountain News will have anything to say about the Haywood County Fairgrounds Arena Building Contract fiascos.

- The Mountaineer [counter overflow] days
- Smoky Mountain News [counter overflow] days

You know what, I think both these newspapers have no intention of ever writing about this.

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

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