

## Haywood County “Toeprints”

November 27, 2012

Vol. #3 Issue #12 (Subject: David Francis, Kirk Kirkpatrick, County Commission Meeting)

[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.

### My Public Comment, Commission Meeting 11/19/2012.

The following is my public comment at the Nov. 19<sup>th</sup> County Commission Meeting:

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“Last Tuesday, **David Francis** presented me with the remainder of the Personal Property Listing letters I have been requesting for months. The total numbered 1,206 letters and are now in a data base format posted on [www.haywoodtp.net](http://www.haywoodtp.net). There are 794 letters that are missing based on **David** Teague indicating there were 2,000 letters.

I also posted a list of about 30 questions regarding the circumstances of these letters and **Francis** has avoided even acknowledging them, let alone answering them.

These questions are now reaching the levels of the State Auditor, the Attorney General, the DMV, the Department of Revenue, the Sheriff, the Office of the Haywood County District Attorney, and are also now posted on my website.

I would like to know the authority **Francis** has for attempting to tax unregistered vehicles which include cars, trucks, mobile homes, boats, trailers, jet ski’s, anything that has ever had a license plate, because I am sure getting some conflicting views on this from the highest levels of the DMV.

**Francis’s** unwillingness to respond to these questions and put them to bed gives the appearance that he is conducting some sort of scam operation here, and your unwillingness to lean on him to respond to these questions does not cast you in a very good light.

Most of you already have these questions, except for you, vice-chairman **Kirkpatrick** and you, commissioner **Ensley**, who both have threatened to delete my e-mails to you.

**Francis** has just indicated that he does not have two files or folders of taxpayers I requested who I know have interacted with him. Is **Francis** or someone in the tax department destroying evidence?

I am providing a copy of the summary of my report to Marty Stamey, the county manager, to see if any of you commissioners, or you **Chip**, will either lean on **Francis** to

answer these questions or if any of you will respond to these questions. These questions are not going away.

Finally, vice chairman **Kirkpatrick**, when you were threatening me with legal advice at the October 15<sup>th</sup> meeting, were you acting as a county commissioner or as a lawyer?

I appreciate your allowing time for me to express my concerns. Thank you.”

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The Personal Property Listing Report is posted on [www.haywoodtp.net](http://www.haywoodtp.net) :

[UPDATE Summary of questions to date and Personal Property Listing letters sent to Haywood County Taxpayers by David Francis Tax Department employees, 11/13/2012. 11/13/2012...](#)

or

<http://haywoodtp.net/pubII/121113Francis.pdf>

### David Francis Nov. 19<sup>th</sup> Public Comment.

**David Francis** again took the opportunity to speak during a public comment session. How many county employees find the need to have to do this? **Francis’** public comments were transcribed from the video of the Nov. 19<sup>th</sup> meeting, shown on [www.haywoodnc.net](http://www.haywoodnc.net).

Throughout **Francis’** comments, count the number of times **Francis** mentions the issue of addressing the 30 questions and when he is going to respond to them...

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### David Francis:

“Good Evening Commissioners, hope everybody’s doing well, I wish everyone a Happy Thanksgiving as well, too. I just want to address the remarks from Mr. Miller there, the uh, Mr. Miller inspected records, there was, we first told him back in June, around 2,000 dollars, which was just - excuse me, 2,000 bills, just an estimate, from years past, uh, the tax assessors office has done a good job of working, calling people, before they had to mail out the letters, so, there was, and then there was those letters that did get mailed out. Some of the letters that are not public record, due to the fact that they have DMV, or vehicle identification numbers in there. DMV - Department of Motor Vehicles. We’re bound by federal and state statues by not releasing that information. So that information is not public record. And if it is public record, it has to be redacted out. Okay? So that’s why you can’t see all the records.

His constant prevarications, you know, a couple of meetings ago, he talks [**Editors Note:** arms waving for emphasis] about an FBI investigation. Unfounded! You know, goes and, you know, sends letters to all these other, you know, departments, Department of Motor Vehicles, Department of Transportation, Department of Revenue, you know, on and on again. We have a conference call with the State Auditors Office today, where they say we find nothing that you are doing that is incorrect. **This is just a personal attack on me** [**Editors Note:** holding his hand across his heart, for emphasis]. This is all it is. And I apologize for to you all and to the citizens of Haywood County that have to put up with this. I'm sorry. But enough is enough, as I said before. This goes on and on and on. You know, he had audacity to call Haywood County la-la land. La-la land. **He doesn't like Haywood County** [**Editors Note:** holding his hand across his heart, for emphasis] He doesn't care about Haywood County. And it's just not right that he keeps dragging, you know, my employees, other fellow workers, that work hard. You know, he goes on diatribe about Dale Burris back in the summer. Still, no apology to Dale. Still. Asked for him to be fired. But no apology. You know, he's inconsiderate, inconsistent in his, you know, attacks. And it doesn't make any more sense any more. Thank you."

- “You know, he had audacity to call Haywood County la-la land. La-la land. He doesn't like Haywood County ...” I'm glad **Francis** brought this up. The reference to la-la land was with respect to **David Francis**' spreadsheet of constantly increasing property values (remember the revaluation?), and is referenced in an e-mail to Marty Stamey on 6/5/2011 which was copied to **David Francis**.

The following is a reprint of that e-mail...

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Hi Marty,

I know of at least one (1) case here in Haywood County that this applies to, and that is the one referenced in Assistant Attorney General Mark Teague's letter to me of May 31, and that is the parcel of property out near Lake Logan whose clients of Steve Martin are trying to make some kind of land transaction, when Mark Teague changed his opinion in his new and improved clarified "Do-Over" statement:

“... The State Property Office is of the opinion[1] that if a current appraisal, conducted by a duly licensed appraiser, were made of these particular tracts of land, the value reflected in such an appraisal would be lower than the value indicated in the 2008 appraisal by as much as thirty percent. ...”

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[1] “opinion” as used in this sentence has the following meaning: “A belief or conclusion held with confidence, but not substantiated by positive knowledge of proof.” American Heritage Dictionary, pg. 872 (Second College Edition, 1991).

[1a] “opinion” as understood through my life experiences: “A lawyer can only express an opinion, a judge makes the ruling”.

If Mark Teague's "Do-Over" statement only applies to this one Itsy-Bitsy parcel, and not the rest of the county, doesn't that kind of screw up Steve Martin's case? If Steve Martin took Mark Teague's original opinion "out of context", as apparently I may have taken his original opinion "out of context", wouldn't that strengthen Steve Martin's original case and contention now? **He and his clients could argue that, as you say, we are fortunate that we live in a county (la-la land) where property values only increase, except for this one Itsy-Bitsy parcel?**

I'm so confused...  
Monroe

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Number of times **Francis** addressed the issue of responding to the 30 questions? **Zero** [0]!

A couple of comments regarding this **Francis** Public Outburst:

- “**This is just a personal attack on me ...**”. You know, **Francis** has a lot to answer for, being a public official and tax collector and all that, and currently has nearly my full attention. You would think he would want to answer these questions and put everything to bed, but no. This “personal attack” - playing the victim - business is not to be confused with an actual physical assault, which **Francis** assaulted on me at the Justice Center on August 6, 2012 [re: Incident Report]. Now that is what I would call a personal attack!
- “...we first told him back in June, around 2,000 dollars, which was just - excuse me, 2,000 bills”. Wait a minute. He told a recipient of one of these “bills”, that was **not a bill**. What is it? Is it a “bill”, or “**not a bill**”?

As you can see, the indirect reference was specific to “a county where property values only increase, la-la land.” It is presumptuous for **Francis** to publically insinuate that I do not like Haywood County. You are encouraged to review the whole concept of ever increasing property values on [www.haywoodtp.net](http://www.haywoodtp.net) :

[Open Letter - Response to Sharon Edmundson, LGC, who responded to my Informal Complaint \(Long download\), 9/25/2011...](#)

or  
<http://haywoodtp.net/pubII/110925Edmundson.pdf>

**Kirk Kirkpatrick Nov. 19<sup>th</sup> Response to Public Comments.**  
In response to my question to **Kirkpatrick** during my public comment (which he never did answer, by the way) “...when you were threatening me with legal advice at the October 15<sup>th</sup> meeting, were you acting as a county commissioner or as a lawyer?”, **Kirkpatrick** again felt the need to speak out and defend his previous comments, and are again transcribed from the same Nov. 19<sup>th</sup> video.

**Kirk Kirkpatrick:**

“... and then as far as Mr. Miller goes, uh, I was - I don't - I don't make threats, I'm not going to make any threats to you, Mr. Miller, your actions, you're accountable for your own actions, whatever they may be, uh, and **you can go read the law** on what it is if you are practicing law, and if you have a degree, uh, and you're licensed to practice law in the State of North Carolina, you certainly can, but if you're not, I mean, **it is an unauthorized practice of law**. It's up to you to determine whether what your doing is practicing law or not. And, uh, it's not a threat by me at all, it's just wanted to call that out, and make sure that you don't get yourself in trouble, that's all. **I'm not going to make any reports.**”

[**Editors Note:** previous public speaker interrupted, presumably a lawyer, thinking **Kirkpatrick** was talking to him]

“Are you talking to me, sir?”

**Kirkpatrick:**

“No, no, no sir, I'm not talking to you, I'm done with the confederate, I was moving on to another issue. (Laughter) No. Uh, and that's all I have to say.”

Before we get to **Kirkpatrick**, what in the world kicked off this business about me practicing law? That's right, it was the last part of my public comment on October 15<sup>th</sup>, reprinted here:

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“There's another completely new problem's that's popped up with **David Francis** that's raised new additional questions.

Do you know Terry Ramey, Commissioner Swanger?

Have you heard about what's going on with Van Winkle? They are a law firm in Asheville. Do you know Van Winkle, Vice chairman **Kirkpatrick**?

Evidently, Van Winkle is under some deal, with **David Francis**, to act as a third party debt collector, and have been sending out collection and foreclosure letters to Haywood County Taxpayers, Terry Ramey being one of them.

These certified letters did not have the required disclosures indicating that they were a third party tax collector, a penalty of \$1,000 per letter. Terry has received five of those letters. His last letter **did** have the required disclosure.

What's going on between **Francis** and Van Winkle? Who was that sanctioned by?

Who is going to pay the \$1,000 fine per letter for not disclosing Van Winkle is acting as a third party debt collector? Van Winkle, or the County? Or should I say, the taxpayers of Haywood County?

You know, I've been waiting **four months** to gain access to these Private Property Listing Letters and information. **Francis** has refused access at every level. By refusing to meet with me, at worst, it makes it appear that he has something to hide. At best, it does not enhance his resume.

These questions are not going away. Now I'm interested in inspecting these Van Winkle letters. The sooner you folks can lean on **Francis** to start having meetings and answering these questions, the sooner they will be resolved.”

This whole thorny business with Van Winkle has evidently gotten under **Kirkpatrick's** skin - the debt collector letters, the missing disclosure about Van Winkle announcing that they were a third party debt collector, the \$1,000 fine per letter for the missing disclosure, etc., etc., etc.

Notice that **no** commissioner nor **David Francis** has bothered to ever respond to this query!

Now to **Kirkpatrick** comments.

Kirkpatrick advised I read the law. Well, here it is. From the North Carolina General Statutes:

**§ 84-2.1. "Practice law" defined.**

The phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation: Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition. The phrase "practice law" does not encompass the writing of memoranda of understanding or other mediation summaries by mediators at community mediation centers authorized by G.S. 7A-38.5 or by mediators of personnel matters for The University of North Carolina or a constituent institution. (C.C.P., s. 424; 1870-1, c. 90; 1871-2, c. 120; 1880, c. 43; 1883, c. 406; Code, ss. 27, 28, 110; Rev., ss. 210, 3641; 1919, c. 205; C.S., s. 198; 1933, c. 15; 1941, c. 177; 1943, c. 543; 1945, c. 468; 1995, c. 431, s. 3; 1999-354, s. 2; 2004-154, s. 2.)

So, vice chairman **Kirkpatrick**, where in the hell am I practicing law? Where in my public comment am I practicing law? Seems to me I'm asking a bunch of questions, like I always do, that no one is very anxious to answer, like they never are.

Now some specific points...

- It doesn't matter that **Kirkpatrick** says "**I don't make threats**", I felt threatened when he made the threat on Oct. 15<sup>th</sup>, and I felt threatened when he threatened that I was practicing law without a license "...**it is an unauthorized practice of law**". This appears to me as a form of official oppression by a public official.
- **Kirkpatrick** wants to make sure I don't get myself in trouble, so he said: "**I'm not going to make any reports.**". Who are you going to make a report to, attorney **Kirkpatrick**, the Bar Association, or will you be making the report as County Commissioner **Kirkpatrick**? Aren't you under some kind of lawyer oath or something to report stuff? Go ahead and make the report, and that will definitely call needed attention to the Van Winkle questions. Why aren't you making a report about Van Winkle anyway?

**North Carolina State Auditor.**

I also had a consultation with the State Auditor's Office last Monday (11/19/2012). I had submitted an Informal Complaint regarding the Haywood County Personal Property Letters. The State Auditor's office investigates fraud. The person I spoke to was very helpful and provided NC General Statutes relating to Unregistered Vehicles (classified motor vehicles). Based on these statutes and additional information from other state agencies, the list of 30 questions will be expanded. Let's see how long **Francis** can continue to blow these off. More to come...

**UPDATE** - No answer from Marty Stamey on any type of response to the 30 questions I handed to him at the last county commission meeting.

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

Monroe A. Miller Jr.,  
Haywood County Taxpayer  
19 Big Spruce Lane  
Waynesville, NC 28786  
[www.haywoodtp.net](http://www.haywoodtp.net)