

Haywood County “Toeprints”

September 24, 2013

Vol. #4 Issue #14 (Subject: * **SPECIAL EDITION** * David Francis, PTC Appeal, Kevin Ensley [RINO])

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.

Haywood County appeal of PTC case 11PTC838.

Do you remember when **Marc Pruett** and Haywood County were sued for **Marc Pruett** trampling on the Cameron’s Due Process Rights? The county lost over half a million dollars, and were about to appeal that case and loose a lot more, but finally capitulated and terminated the appeal.

Here we go again!

In the dark of night, late on July 15, 2013, after reconvening from a closed session, commissioners voted to appeal case number 11PTC838. From the approved minutes of the July 15, 2013 County Commission meeting:

“The Board returned from closed session. Chairman Swanger noted that a request had been received from David Francis, Tax Administrator, to authorize an appeal of the Property Tax Commission’s decision for case 11PTC838. Commissioner Upton motioned to authorize David Francis, Tax Administrator to appeal case 11PTC838. Vice Chairman Kirkpatrick seconded; the motion carried unanimously.”

What a minute! Does anyone smell a rat?

This **SPECIAL EDITION** will outline three (3) problems thus far with this decision that, to me, present overwhelming obstacles to ever appealing this case.

I. Charles Meeker.

Charles Meeker is a lawyer who works at Parker Poe, a law firm that has done considerable work for Haywood County before, notably in purchase of the old Walmart Building. **Charles Meeker** was selected by [who knows who?] County Commissioners, I suppose, to represent Haywood County and **David Francis** in the King’s revaluation tax case with the Property Tax Commission.

Multiple Requests for Public Information to **Julie Davis**, Financial Director, on **Charles Meeker’s** total legal costs to the county have proven futile. Her best and only response to date is to provide an amount for the month of January, after

which most of **Meeker’s** work had already been completed. She indicated:

“On Fri, Jul 19, 2013 at 4:11 PM,
Julie Davis <jhdavis@haywoodnc.net> wrote:
Jonnie,

I have been able to pull together some costs that have been posted related to the appeals in January 2013. Travel and attorney fees for the appeals at that time come to \$6,831.57. This may include appeals other than the King appeal, as the invoices are posted in total. I have tried to see if anyone has been keeping record of the expense separately, and have, so far, not found any information that is better segregated. If I happen to get this information in the near future, I will certainly send it to you.

Julie H. Davis, Finance Director”

Charles Meeker was set up as a “Gatekeeper” for responding to Denny and Debbie King’s Requests for Public Information for their case, i.e., the King’s had to go through **Meeker** to get to **David Francis** and **Judy Ballard**.

For information on what a “Gatekeeper” is, see:
<http://haywoodtp.net/pubII/120803-99cvs03497.pdf>

This triggered the first obstacle to the appeal - a grievance filed against **Charles Meeker** with the North Carolina Bar Association, File Number 13G0837. **Meeker** is alleged to have violated Rule 3.4 of the Rules of Professional Conduct,

<http://haywoodtp.net/pubII/130515ROPC.pdf>

which states:

RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

(a) unlawfully obstruct another party’s access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act; ...

In the complaint, I alleged that **Charles Meeker** violated (at least) two (2) aspects of **Rule 3.4 (a)**,

- He unlawfully obstructed another party’s access to evidence, and
- He unlawfully concealed a document having potentially evidentiary value.

"In the first instance, the King's did not receive all the information they had requested (see attached e-mail correspondence between King / Ballard / Teague / Meeker.

[<http://haywoodtp.net/pubII/130819DialogwithMeeker.pdf>]

In the second instance, no one from the county, again Francis / Ballard / Teague / Meeker offered anything about Neighborhood Delineation Rates. The cat was let out of the bag when Doug Huffman, an employee of the Property Tax Commission, the guy who came to Haywood County to "act as mediator" between the County, Taxpayers and the Property Tax Commission, let slip one day to the King's, the whole concept of "rates". That would be Neighborhood Delineation Rates, the entire basis of why the Kings won their case with the Property Tax Commission and why the Property Tax Commission found that:

"2. In this appeal, Appellants did present evidence tending to show that the county tax supervisor used an arbitrary method of valuation; and that the county's assessment substantially exceeded the true value in money of the property." [re: 11 PTC 838].

The outcome of this grievance is now in the hands of the North Carolina Bar Association, and depending on their ruling, could complicate the County's actual basis for appeal, or possibly eliminate **Meeker**'s participation in the appeal.

II. David Francis tirade at 9/16/2013 Commission Meeting.

David Francis was forced to respond to critics at the 9/16/2013 County Commission Meeting without the aid of a prepared Power Point Presentation. He covered quite a bit of ground -

<http://haywoodtp.net/pubTP/T130922.pdf>

but it was interesting that he felt he had to respond as to the reasons for appealing the Kings PTC case, 11PTC838. Remember, this was unscripted, and was transcribed from the 9/16/2013 video of that meeting.

Francis:

[1] To tell you a little bit about the hearing, is we went down there, and we started out, there was a with five commission board. We started out with three commissioners. When we ended that meet-, that morning, we had a different commissioner. We had commissioners one, three, five. Commissioner two comes in eleven minutes late. Commissioner one leaves. We didn't feel that we heard . If the King's had appealed the win, if the county had won and the King's appealed, we would understood after being in the hearing that morning, we would have completely understood.

[2] The commission also chose an arbitrary number, a number that was not put into evidence. And as for the language there, that they used, that is standard language used when they have a ruling or a decision. Nothing about just Haywood County.

[3] **Number three is the misinformation, that started somewhere, probably with Mr. Miller, cause he gets it wrong, talking about neighborhood delineation. Neighborhood delineation. There was nothing, not one word, said about neighborhood delineation. But there he goes, mouthing off, again. And he's wrong.** That's why we appealed, three reasons, that's why. Any questions, commissioners?

Let's hit these one by one.

[1] There was evidently a quorum of commissioners present at all time. The County has ordered a transcript of the case at a cost to Haywood County Taxpayers of about \$800 (that's about what I pay each year in property tax). The King's will get a copy of the transcript for presumably a lot less money, and as soon as I receive a copy of this transcript, I will post it on www.haywoodtp.net. We can then all determine what transpired in this hearing to determine if this was a cause for appeal.

[2] From the ruling, "**2. In this appeal, Appellants did present evidence tending to show that the county tax supervisor used an arbitrary method of valuation; and that the county's assessment substantially exceeded the true value in money of the property.**" [re: 11 PTC 838]." References to the "Appellants", (the King's), "the county tax supervisor", (Judy Ballard), "the county's assessment", and "the property" certainly sound to me that this **was** specific to Haywood County, contrary to **David Francis** statements.

[3] Me! I was part of the reason for county commissioners voting in the dark of night on July 15, 2013 for this appeal? You have got to be kidding me. There was no discussion of neighborhood delineation from me on my website until after the appeal was decided on.

III. Closed Session Minutes.

I made a request for public information requesting released closed minutes from the 9/3/2013 county commission meeting to Amie Owens. She provided 34 pages of closed minutes, now posted on www.haywoodtp.net.

<http://haywoodtp.net/pubII/130903ReleasedClosedMinutes.pdf>

These were released closed minutes from December 2011 through July 15, 2013. July 15, 2013 is the very same closed session county commissioners reconvened from when they

made their decision to appeal 11PTC838, pages 33 - 34 of the closed minutes package.

From North Carolina General Statutes:

§ 143-318.11. Closed sessions states:

(a) **Permitted Purposes.** – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant.

The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.

The members present during this closed session were:

- **Mark Swanger**
- **Kirk Kirkpatrick**
- **Bill Upton**
- **Kevin Ensley**
- **Michael Sorrells**

Staff Present:

- **Marty Stamey**
- **Julie Davis**
- **Leon & Chip Killian**
- Amie Owens
- Kris Boyd

The Subject of the meeting was: Bond Release Agreement - Avalon Development.

What the commissioners should have announced at the end of the closed session was a report about a tentatively accepted offer with Avalon Development. Instead, they said [re: minutes]

“The Board returned from closed session. Chairman Swanger noted that a request had been received from David Francis, Tax Administrator, to authorize an appeal of the Property Tax Commission’s decision for case 11PTC838. Commissioner Upton motioned to authorize David Francis, Tax Administrator to appeal case 11PTC838. Vice Chairman Kirkpatrick seconded; the motion carried unanimously.”

David Francis was not even present at the meeting! There was nothing said, not one [expletive deleted] word about **Francis** requesting 11PTC838 in the closed minutes be appealed. There was no portion of these released closed minutes that were redacted.

Commissioners have a real problem here. Where was their authority to approve **David Francis** moving forward with this appeal?

Since taking an action on approving an appeal for 11PTC838 was never an agenda item for the July 15, 2013 meeting, they could not bring it up. To the casual observer, it would have appeared to have been a result of the closed session, but there was not one [expletive deleted] word about it in the released minutes. Which means that either

- The closed minutes were falsified - It was discussed in closed session, but never written in the minutes, or
- It never happened in closed session, and commissioners led the public into believing it was discussed during the closed session. There was nothing on the agenda that ever gave commissioners authority to bring this up for action.

I sent an e-mail on 9/23/2013 to the members and staff present at that closed session meeting asking if those closed minutes were falsified, and the only response I received (other than some irrelevant stuff from **Becky Johnson**) was the following e-mail from **Kevin Ensley** [RINO]:

From: Kevin Ensley <lkensley@bellsouth.net>
To: Becky Johnson <becky@smokymountainnews.com>
Cc: Monroe Miller; Marty Stamey
<MStamey@haywoodnc.net>; Amie Owens
<AOwens@haywoodnc.net>; Julie Davis
<jhdavis@haywoodnc.net>; mark swanger
<markswanger@bellsouth.net>; kirk kirkpatrick
<kirk@jwklaw.net>; Michael Sorrells
<sorrells@cbvnol.com>; Bill Upton
<billupton@bellsouth.net>; Chip Killian
<CKillian@haywoodnc.net>; chip killian
<chip.killian@nelsonmullins.com>; David Francis
<DBFrancis@haywoodnc.net>; Denny King
<kingsplace@charter.net>; Jonnie Cure
<jcubed41@gmail.com>; Eddie Cabe
<aecabe@bellsouth.net>; Lisa Womack
<lisa.a.womack@gmail.com>; Greg Christopher
<gchristopher@haywoodnc.net>;
<wpdchief@waynesvillepd.com>
<wpdchief@waynesvillepd.com>; Vicki Hyatt
<vhyatt@themountaineer.com>; Roy Cooper
<OpenGov@ncdoj.gov>
Sent: Sunday, September 22, 2013 10:47 PM
Subject: Re: Falsification of Released Closed Minutes.

Becky,

You are correct about the minutes.

The reason I do not accept Miller's emails is because of his profanity. I take the use of God's name in vain with the utmost

offence. This re-edifies my conviction of having him and his supporters (King, Cure and Cabe) blocked from my email account. Exodus 20:7 & Proverbs 20:3.

Kevin Ensley

Sent from my iPad

The only response from any of these people at the closed session was **Ensley** [RINO], lecturing me with scripture [This is a First Amendment Issue, commingling Church and State from a county official]. No one else responded, and nothing from anyone about the crux of the problem., just scripture.

It is for these three (3) aspects, I, II, and III, that this appeal should and probably will be killed.

Legend: If any name is in **bold**, it can't be a good thing.
[RINO] Republican In Name Only (i.e. **Kevin Ensley**, **Mitchell Powell**).

[**Editors Note:** How is **Mitchell Powell** [RINO] related to the plot of the soon-to-be-released short story, “The mystery Blueberry Pie Woman”?].

Monroe A. Miller Jr.,
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