

Haywood County “Toeprints”

February 6, 2018

Vol. #9 Issue #4 (Subject: MOU - McGill, Scott Burwell, Christy Brown, David Francis - Kris Boyd.)

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.

Keep Following the Money...

Ever since the 12/18/2017 County Commission meeting, where commissioners passed the **David Francis** Dirt Spreading Project for the James Weaver “**Kirk**” **Kirkpatrick** III Super Duper Sports Complex, i.e. the Jonathan Creek Soil Reclamation Project, I have been attempting to verify if any bidding irregularities of this project took place, which was brought to my attention following the meeting that evening by a county employee.

The MOU.

An MOU (Memorandum of Understanding) is an agreement between two parties. Terry Ramey and I were presented a snippet of an MOU, signed by Sara McCoy of Avcon USA, LLC, at our infamous meeting with **Joel Mashburn**, in his conference room on 2/1/2018.



See <http://haywoodtp.net/pubII/180201MOU-McCoy.pdf>

This is the only evidence that when McGill jacked up the Earthmoving requirement from 25,000 CY (Cubic Yards) of dirt to 35,000 CY in the Bidding Documents (which all bidders were required to bid on), this volume of dirt was backed down to 25,000 CY two days after the bidding results were turned in.

This stinks to high [expletive deleted].

Supplemental Background Documents.

During the BOCC meeting on 11/20/2017, commissioners passed item #6 under new business, presented by **David Francis**:

6. Request approval of contract for McGill Associates to provide engineering and surveying services at the Jonathan Creek property needed to move 25,000 cubic yards to be paid from Economic Development budgeted funds – **David Francis**, Program Administrator – ATTACHMENT 12

Nothing was ever mentioned about 35,000 CY, because 25,000 CY was all the dirt that was available from the new Publix site.

Bidding Documents.

In the dark of night, McGill created this 242 page Bidding Documents:

<http://haywoodtp.net/pubII/180105-2BiddingDocuments-JonathanCreekSoilReclamationProject.pdf>

The only **single** instance of any description of the quantity of dirt to be spread in this entire document is on page 29, in a table called BID SCHEDULE. Item #6 is defined as “Earthwork” with the amount of 35000 CY.

No one will confess who authorized McGill to make 35,000 CY a requirement for this Bid, over the original 25,000 CY.

All bidders were required to use this new number for their bid.

As you can tell from the BidTab (Certified Bidding Tabulation), all items from this BID SCHEDULE appear, from two bidders, Avcon USA, LLC and Custom Paving.

The BidTab is on McGill letterhead. WTF? Shouldn’t this be on Haywood County letterhead? Donna Corpening, who is present at 99% of bid openings, was sliced out of any action during this bid opening.

This is the original BidTab I received -

<http://haywoodtp.net/pubII/180111-1700158CertBidTab-J-Crl-Soil-Prj.pdf>

Note that the date of certification was on the 8th day of December, 2017.

When questioned on this date, based on an e-mail from **Christy Brown**, PE, McGill Associates on December 8, 2017 from a **David Francis** e-mail dump, to bidders, changing the opening date from December 8 to December 11, **Christy Brown** had to regenerate a new Certification.

See David Francis e-mail dump, page 30,

<http://haywoodtp.net/pubII/180118DBF-emails.pdf>

Joel Mashburn had a brand new “Certified BidTab” waiting for me at our 2/1/2018 meeting, Item #3. There is no indication on this new document that it was ever revised from the first document. I call this back-dating a document. Unfortunately for this bunch, I have flooded my website www.haywoodtp.net with so much information, the door to back dating documents has been effectively shut.

<http://haywoodtp.net/pubII/180201MashburnDoc3.pdf>

Who watches these people? All of this was done in the dark of night by the following cast of characters:

- **David Francis**, HC Administrative Program Evaluator
- **Kris Boyd**, HC Planning Director
- **Christy Brown**, McGill Project Director
- **Mark Cathey**, McGill, (Title unknown)
- **Scott Burwell**, McGill, Project Manager

Contract Documents.

Donna Corpening was the first to alert me about the 249 page Contract Documents. I said, “you mean 242 page document”. No, she said, it is 249 pages. Donna Corpening was the employee to send me this Contract Documents, not **Joel Mashburn**.

<http://haywoodtp.net/pubII/180111JonathanCreekSoilReclamationPrjContractDocs.pdf>

There is no instance of either “25000” or “35000” in this entire document!

Let that sink in a little bit.

These Contract Documents never state the amount of dirt to be spread.

Then, during our infamous meeting with **Joel Mashburn** on 2/1/2018,



a two (2) page snippet of an MOU was lying under the 249 page Contract Documents (fat document with the black binder in the photo).

See: <http://haywoodtp.net/pubII/180201MOU-McCoy.pdf>

This document, the only portion I have been provided to date, is signed by Sara McCoy on 12/13/2017.

See the new and improved DBF (**David Francis**) e-mail dump to see how these crafty individuals changed 35,000 CY back to 25,000 CY.

<http://haywoodtp.net/pubII/180204ConsolidatedDBFemails.pdf>

Now, based on a reduction of soil to be spread from 35,000 CY to 25,000 CY, Avcon USA, LLC was able to reduce the bid amount from \$263,982.75 to \$167, 802.75, a reduction of 36.4%.

WTF?

It appears that during this whole e-mail exchange, Sara McCoy was never a part of this negotiation. Rather, it was Steve Miller (no middle initial) doing the negotiation with **David Francis, Kris Boyd** and the McGill crew. It makes it appear that Avcon is simply a front organization for Rabbitskin Enterprises.

Scouring the Contract Documents, there is no instance of the amount of dirt. No instance of either “25000” or “35000”. However, on page 48 of the 249 page document, the newly negotiated price of \$167,802.75 magically appears. In addition, on page 53, there is a reference to the MOU under “Exhibits to the Agreement”, Item c., Memorandum of Understanding dated December 13, 2017.

The MOU itself states that “This Memorandum of Understanding shall become a part of Contract Documents, which revises the bid submitted on December 11, 2017”.

To this day, I do not have a full and complete copy of this MOU. I have requested the following Public Information on 2/2/2018, but have received nothing.

- I want to see the cover page(s) of this MOU.
- Since an MOU is an agreement between 2 people or entities, I want to see the signature page for whoever signed this for the County.
- The MOU references (at the end), some enclosures:
 - Revised Drawing and Detail,
 - Sheet R-1 and R-2, dated December 13, 2017
- Who was present when this MOU was discussed with McGill and Steve Miller?
- Which Steve Miller was present? Steve Lee Miller, or Steve J. Miller?

It appears from the **David Francis** e-mail dump, that this MOU was created by McGill, not our Haywood County Attorney, **Chip, a.k.a. Leon Killian**.

Who generated this MOU?

This whole episode gives the appearance of impropriety. If I were a bidder, and I had to cap my bid below \$500,000 for moving 35,000 CY of dirt, then to find out that McGill, Steve Miller, **David Francis** and **Kris Boyd** schemed to back it back down to 25,000 CY, I would be mad as [expletive deleted]. In fact, I would consider a class action lawsuit against **David Francis** and McGill Associates.

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

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Si vis pacem, para bellum