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September 4, 2010

Kirk Kirkpatrick, Chairman  
**Haywood County Board of Commissioners**  
**Historic County Courthouse**  
215 North Main Street  
Waynesville, NC 28786

**Subject:** Executive Summary - FLS Solar Thermal Design at Haywood Community College.

There is a problem with how Rose Johnson is administering the Solar portion of the design of the Creative Arts Building at HCC while seeking to obtain a \$12 Million loan from the county, funded by the voter approved quarter cent sales tax revenue.

All aspects of this portion of the project are under strict **lock down** by Rose Johnson. That includes:

- No Board Trustee (that I have spoken with) has seen the FLS design,
- No Board Trustee (that I have spoken with) has seen the FLS contract,
- I have not been provided by HCC with access to either the Requirements, Specifications or Design of the project,
- FLS personnel are “unavailable” when asked about the design for the Creative Arts Building,
- Rose Johnson has refused to answer any more questions from me, as she is uncomfortable with the way I present information to the public.

I attended the August 30<sup>th</sup> HCC Board of Trustees meeting. I recorded the meeting (open session). One purpose of the meeting was to have the board approve “in concept” the contract for the HCC Creative Arts Building. It has been created by a plethora of lawyers, including Mr. Smathers, Derek Wenzel, and our appointed County Attorney, Chip Killian. The contract was incomplete, but contained things like:

- Land for the Creative Arts Building is to be deeded over to the County,
- The Creative Arts Building becomes property of the County (because the County is the one taking out the loan),
- Both the land and the building will be deeded back to the Community College once the loan has been paid off (some details of this still needed further refinement in the contract).

The contract did not include:

- Anything relating to the Solar project or FLS, about 10% of the contract.

It was at this point that I gained great respect for the caliber of people seated and chosen for the Board of Trustees. These people were presented this contract “on the fly”, as Rose Johnson indicated changes had been occurring Friday, Saturday, and Sunday (all through the weekend) before the 7:30 am Monday morning meeting.

Several Board members scanned through the contract and discovered that if they were to “approve the contract in concept”, it meant they would be giving authority to Rose Johnson and the Chair of the Board of Trustees to approve the **Final Contract!**

Several board members noted that there was a lot of experience sitting at that table, and it should be used collectively to review any final contract. [I took it another way - I'm not so sure the Board trusted Johnson and the Chair to make a completely unbiased final decision. If this thing goes south, it is the Board of Trustees reputations that are on the line]. Under any circumstances, the Board made a motion to:

- Approve the concept of the contract as presented, **provided that**,
- The final Contract will come before the Board of Trustees for final approval.

There was one subsequent Board of Trustees meeting on September 2<sup>nd</sup>, but it's purpose was to have the architect identify areas to remove to reduce overall cost from the Creative Arts Building because the bidders came in over budget. The Board identified several area's to remove and bring costs back within budget, and came to that agreement unanimously.

There was a short closed session regarding a question relating to the Solar Contract, which lasted about 10 - 15 minutes.

It should be noted that the last time there was a vote taken regarding the solar portion of the project, the vote was 6 to 5 in favor. Randy Herron has since resigned, and if the vote were taken today, it would be a tie - there are as many people **for** the solar portion as there are **against** the solar portion. The Chair, Bumgarner would cast a final vote in favor. However, all it would take is for a single Board member to come to their senses and vote **no**, and Bumgarner would no longer have the deciding vote.

Rose Johnson is turning these wheels, and if she wanted to, she could have had the FLS portion of the contract ready for this Board of Trustees to review at last Monday's Board of Trustees meeting, before you, the County Commissioners, are to vote to proceed with the \$12M loan today. As it stands now, you will not have the final say here.

What? Is that how this works?

If you pass this motion today and start the \$12M loan in motion, and the Board of Trustees, for whatever reason, decides **not** to approve the final contract containing the remaining 10% relating to FLS and the solar portion, what then?

Will the construction commence without the solar equipment? (You own the building now, remember?) Will it be compliant with Senate Bill 668? One Board of Trustee member said: "Maybe".

What?

If it is, then why are we adding the Solar Design in the first place?

I think you only have one choice here today at this time, and that is to table this motion for 90 - 120 days until the Board of Trustees makes their final decision on approving the FLS Solar portion of the final contract.

Perhaps during that period, that would give a little time for Johnson to thaw out and reconsider lifting the **lock down** she has on this project and open it up to the public for scrutiny. I have been in contact with Tommy Cleveland, the Engineer at the NC Solar Center, (he was one of the experts referenced in Becky Johnson's recent Smoky Mountain News Article), and he would be pleased to take a look at the design and comment on it. Although he is not totally unbiased about solar designs, he is concerned that Solar Thermal does not get a bad name.

I have included some additional information relating to this Solar Design in a supplement to this Executive summary.

Monroe A. Miller Jr.

enc: **Supplement - What is known about the FLS HCC Design at this point in time.**

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