

Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786
April 19, 2015

Subject: Commissioners Leasing County Acquired Property for Private Use.

The county commissioners, Swanger, Ensley and the others, purchased a piece of farmland years ago in Jonathan Creek off Route 276. This farmland did not have a clear title (bungled by our County Attorney, Chip Killian), and Swanger, Ensley and the other commissioners had to cough up an additional \$100K to clear the title. Numbers I have heard for the purchase of this property (including the extra \$100K) varies between \$1 Million to \$1.3 Million Dollars. The intent was to make this into some kind of super park. Unfortunately, over half of this acreage is in a designated flood zone, and you can't building anything in a flood plane. James Weaver "Kirk" Kirkpatrick III is desperate to get this park named after him.

This land was acquired by the county as Public Land. No one pays any property tax on this land. The parcel is PIN # 8607-27-9452. The current assessed value is \$883,600.00.

There it sits.

Then, a small notice appeared on www.haywoodnc.net, an RFP (Request for Proposal) regarding leasing some county owned land for "cultivation activities".

During a casual conversation between Terry Ramey and James Weaver "Kirk" Kirkpatrick III a couple of days ago, Ramey said to Kirkpatrick, you can't do that, it's illegal.

Evidently, Swanger, Ensley and the other county commissioners went into full lock-down after that.

Unfortunately, commissioners and county managers (that includes Stoney Blevins, new Assistant County Manager) neglected AmJur § 471. Property for municipal or public purposes, which says:

Municipalities may acquire and hold title to real property only for legitimate corporate purposes. Because a municipal corporation or county may not expend public funds for a purpose that is not public, such entities have no authority to purchase and hold property for a purpose not connected with a public use.

Efforts to get anything out of anyone (both newspapers are being copied on all this stuff, and as usual, are remaining completely silent) is met with stony silence. [Get it - "stony"?]. No one, absolutely no one will respond to my requests for public information on this matter. I have to assume one of the following:

- Everyone's computer is broken
- Everyone has dove into the Bunker along with David Francis and Julie Davis
- Everyone is now trying to figure out how not to be arrested.

Here are the "one way" e-mails requesting information relating to leasing the acquired property soon to be called the James Weaver "Kirk" Kirkpatrick III Park.

Enjoy...

Monroe A. Miller Jr.
Haywood County Taxpayer.

Subject: Request for Public Information - Request For Proposals To Lease Property

Date: Wed, 15 Apr 2015 13:49:41 -0400

From: Monroe Miller

To: Ira Dove <idove@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, KEVIN ENSLEY <lakensley@bellsouth.net>, Mark Swanger <markswanger@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Bill Upton <billupton@bellsouth.net>, KIRK KIRKPATRICK <kirk@jwklaw.net>, David Francis <dbfrancis@haywoodnc.net>, Claire Carlton <ccarleton@haywoodnc.net>

CC: Candace Way <ecway@haywoodnc.net>, Stoney Blevins <tsblevins@haywoodnc.net>

Mr. Dove and Ms. Carlton,

This is a Request for Public Information. On or about 3/13/2015, a notice was posted on www.haywoodnc.net, Request For Proposals To Lease Property, pointing to http://haywoodnc.net/index.php?option=com_content&view=article&id=1807:news-recrpf031615&catid=1:latest-news

Haywood County is seeking proposals for the lease of approximately 22 acres it owns. The property in described at PIN # 8607-27-9452 and is off Highway 276 near Potts Drive in the JonathanCreek area. The lease will be for a term of one year and is limited to cultivation activities.

To review a copy of the proposed lease terms, please contact Claire Carleton, Haywood County Recreation and Parks Director at 828-452-6789, 63 Elmwood Way, Waynesville, NC 28786; ccarleton@haywoodnc.net. Written bids to the attention of Ms. Carleton must be received by mail or delivery to the above address or by email by 5 p.m., Friday, March 27, 2015.

DATE: March 13, 2015

It is my understanding that this parcel of land, also soon to be known as the James Weaver Kirk Kirkpatrick III Park, was also leased last year, to some guy named Ross, I believe, for the purposes of growing corn.

I would like to inspect all lease records for this parcel of land since the county acquired this land for public purposes. I would also like to inspect any and all written bids received by Claire Carlton as stipulated by the above notice.

Then, I would like for you to explain how the [expletive deleted] that you all can lease this land for the private use of people growing crops, in flagrant disregard for § 471. Property for municipal or public purposes (see attached). It states:

Municipalities may acquire and hold title to real property only for legitimate corporate purposes. Because a municipal corporation or county may not expend public funds for a purpose that is not public, such entities have no authority to purchase and hold property for a purpose not connected with a public use.

Please acknowledge this request for Public Information.

Monroe Miller



American Jurisprudence, Second Edition
Database updated August 2011
Municipal Corporations, Counties, and Other Political Subdivisions
George Blum, J.D., Romualdo P. Eclavea, J.D., Tracy Bateman Farrell, J.D., Alan J. Jacobs, J.D., Jack K. Levin,
J.D., and Amy G. Gore, J.D. and Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research
Group, Inc.

XII. Property
A. Acquisition and Ownership

Topic Summary Correlation Table References

§ 471. Property for municipal or public purposes

West's Key Number Digest

West's Key Number Digest, Counties ↪ 103, 106
West's Key Number Digest, Municipal Corporations ↪ 223
West's Key Number Digest, Towns ↪ 35.3, 35(1), 35(2)

Trial Strategy

Proof of Offer and Acceptance of Dedication of Land to Public Use, 77 Am. Jur. Proof of Facts 3d 1

Forms

Am. Jur. Legal Forms 2d § 180:85 (Resolution accepting historic landmark)

Municipalities may acquire and hold title to real property only for legitimate corporate purposes.[1] Because a municipal corporation or county may not expend public funds for a purpose that is not public, such entities have no authority to purchase and hold property for a purpose not connected with a public use.[2] Valid municipal purposes for which property may be purchased include developing a state prison,[3] maintaining off-street parking facilities,[4] operating a municipal landfill,[5] owning and leasing a miniature golf course,[6] and maintaining a sewage system.[7] In contrast, land acquired by a village solely to frustrate efforts to acquire such land for a forest preserve is not acquired for a valid public purpose.[8]

Municipal corporations may hold real estate that is not devoted or intended to be devoted to any public purpose when such property has come to it by a lawful gift or devise[9] or has ceased to be used for the public purpose for which it was originally acquired.[10]

[FN1] *Lewis v. City of Shreveport*, 108 U.S. 282, 2 S. Ct. 634, 27 L. Ed. 728 (1883); *Timothy Christian Schools v. Village of Western Springs*, 285 Ill. App. 3d 949, 221 Ill. Dec. 261, 675 N.E.2d 168 (1st

Dist. 1996); *Hogge v. Rowan County Fiscal Court*, 313 Ky. 387, 231 S.W.2d 8 (1950); *Wilson Coalition v. Mayor and Common Council of City of Summit*, 245 N.J. Super. 616, 586 A.2d 346, 65 Ed. Law Rep. 811 (Law Div. 1990).

[FN2] *Walbridge v. Carroll*, 172 Ohio App. 3d 429, 2007-Ohio-3586, 875 N.E.2d 144 (6th Dist. Wood County 2007); *Holecek v. Sundby*, 2007 SD 128, 743 N.W.2d 131 (S.D. 2007).

[FN3] *Burks v. City of Licking*, 980 S.W.2d 109 (Mo. Ct. App. S.D. 1998).

[FN4] *CLEAN v. City of Spokane*, 133 Wash. 2d 455, 947 P.2d 1169 (1997).

[FN5] *State ex rel. Birk v. City of Jackson*, 907 S.W.2d 181 (Mo. Ct. App. E.D. 1995).

[FN6] *Kautza v. City of Cody*, 812 P.2d 143 (Wyo. 1991).

[FN7] *Kelley v. City of Griffin*, 257 Ga. 407, 359 S.E.2d 644 (1987).

[FN8] *Village of Fox River Valley Gardens v. Lake County Forest Preserve Dist.*, 224 Ill. App. 3d 919, 166 Ill. Dec. 855, 586 N.E.2d 813 (2d Dist. 1992).

[FN9] *Treadwell v. Beebe*, 107 Kan. 31, 190 P. 768, 10 A.L.R. 1359 (1920);

Kennedy v. City of Nevada, 222 Mo. App. 459, 281 S.W. 56 (1926); *Berg Development Co. v. City of Missouri City*, 603 S.W.2d 273 (Tex. Civ. App. Houston 14th Dist. 1980), writ refused n.r.e., (Oct. 29, 1980).

As to the possibility of reverter when land is gifted or devised upon condition, see Am. Jur. 2d, Estates § 207.

[FN10] *Kennedy v. City of Nevada*, 222 Mo. App. 459, 281 S.W. 56 (1926).

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AMJUR MUNCCORP § 471

END OF DOCUMENT

Subject: Re: Request for Public Information - Request For Proposals To Lease Property

Date: Wed, 15 Apr 2015 13:58:54 -0400

From: Monroe Miller

To: Stoney Blevins <tsblevins@haywoodnc.net>

CC: Ira Dove <idove@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, KEVIN ENSLEY <lkensley@bellsouth.net>, Mark Swanger <markswanger@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Bill Upton <billupton@bellsouth.net>, KIRK KIRKPATRICK <kirk@jwklaw.net>, David Francis <dbfrancis@haywoodnc.net>, Claire Carlton <ccarleton@haywoodnc.net>, Candace Way <ecway@haywoodnc.net>

Mr. Blevins,

If Ira Dove is too busy to acknowledge this Request for Public Information, presumably because all of his time is consumed with the re-write of the EMO, this Request for Public Information will be coming straight to you.

Thank you,

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: Request for Public Information - Request For Proposals To Lease Property

Date: Wed, 15 Apr 2015 15:44:07 -0400

From: Monroe Miller

To: Stoney Blevins <tsblevins@haywoodnc.net>

CC: Ira Dove <idove@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, KEVIN ENSLEY <lakensley@bellsouth.net>, Mark Swanger <markswanger@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Bill Upton <billupton@bellsouth.net>, KIRK KIRKPATRICK <kirk@jwklaw.net>, David Francis <dbfrancis@haywoodnc.net>, Claire Carlton <ccarleton@haywoodnc.net>, Candace Way <ecway@haywoodnc.net>, Vicki Hyatt <vhyatt@themountaineer.com>, Kevin Fuller <kfuller@themountaineer.com>, Becky Johnson <becky@smokymountainnews.com>, Jonnie Cure, Eddie Cabe, Greg Christopher <gchristopher@haywoodnc.net>

Mr. Blevins (Assistant County Manager),

Let me know if you think I should be adding the SBI on this copy list. I now have a great contact I met during my meeting with the FBI and SBI back in January [re: HCGOP donation irregularities]. As an aside, they all seemed pretty interested in keeping up with David Francis' activities. I understand he might be involved in this.

Patiently awaiting a response from anyone...

Thank you,

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: Request for Public Information - Request For Proposals To Lease Property - AMENDED.
Date: Thu, 16 Apr 2015 10:49:27 -0400
From: Monroe Miller
To: Stoney Blevins <tsblevins@haywoodnc.net>, Ira Dove <idove@haywoodnc.net>, Candace Way <ecway@haywoodnc.net>
CC: Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, KEVIN ENSLEY <lakensley@bellsouth.net>, Mark Swanger <markswanger@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Bill Upton <billupton@bellsouth.net>, KIRK KIRKPATRICK <kirk@jwklaw.net>, David Francis <dbfrancis@haywoodnc.net>, Claire Carlton <ccarleton@haywoodnc.net>, Vicki Hyatt <vhyatt@themountaineer.com>, Kevin Fuller <kfuller@themountaineer.com>, Becky Johnson <becky@smokymountainnews.com>, Jonnie Cure, Eddie Cabe, Greg Christopher <gchristopher@haywoodnc.net>, Denny King, Bill Hollingsed <wpdchief@waynesvillepd.com>, Kathi McClure <kmclure@haywoodnc.net>

Mr. Dove (County Manager) and Mr. Blevins (Assistant County Manager),

It has been brought to my attention that this parcel, PIN # 8607-27-9452, a.k.a. also soon to be known as the James Weaver "Kirk" Kirkpatrick III Park, may not be the only county owned property that the county is leasing out. This has to be extremely disturbing to all Haywood County Taxpayers, so I would like to clear this issue up by revising my original request to not only include "I would like to inspect all lease records for this parcel of land since the county acquired this land for public purposes. I would also like to inspect any and all written bids received by Claire Carlton as stipulated by the above notice.", but all county property acquired by the county that is being leased for non-public purposes.

Ms. Way, I seem to be having a problem getting any kind of acknowledgement for this Request for Public Information from your boss, Mr. Dove, and Mr. Blevins. Do you report to Mr. Blevins also? The organizational chart is not clear on this. I presume Dove must be busy with re-writing the EMO and I imagine Mr. Blevins is researching whether or not the SBI should be added to this copy list.

Patiently awaiting a response from anyone...

Thank you,

Monroe Miller

Pursuant to Proper Etiquette and N.C.G.S. § 14-196.3, this e-mail conforms to Section (e) which applies to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly.

Subject: Re: 5th Request for Public Information - Request For Proposals To Lease Property - AMENDED.
Date: Thu, 16 Apr 2015 20:53:11 -0400
From: Monroe Miller
To: Stoney Blevins <tsblevins@haywoodnc.net>, Ira Dove <idove@haywoodnc.net>, Candace Way <ecway@haywoodnc.net>, Claire Carlton <ccarleton@haywoodnc.net>
CC: Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, KEVIN ENSLEY <lkensley@bellsouth.net>, Mark Swanger <markswanger@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Bill Upton <billupton@bellsouth.net>, KIRK KIRKPATRICK <kirk@jwklaw.net>, David Francis <dbfrancis@haywoodnc.net>, Vicki Hyatt <vhyatt@themountaineer.com>, Kevin Fuller <kfuller@themountaineer.com>, Becky Johnson <becky@smokymountainnews.com>, Jonnie Cure, Eddie Cabe, Greg Christopher <gchristopher@haywoodnc.net>, Denny King, Bill Hollingsed <wpdchief@waynesvillepd.com>, Kathi McClure <kmclure@haywoodnc.net>

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