

Haywood County “Toeprints”

July 31, 2013

Vol. #4 Issue #6 (Subject: **Haywood County buying private property at Tax Foreclosure Sales**)

(**David Francis, Julie Davis, June Ray, Vicki Hyatt**)

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.

Synopsis of this Issue of Toeprints.

This is an extremely complicated and comprehensive Issue of Toeprints. There will be four (4) main points with this issue.

- **Julie Davis** - Did she cut two checks to the Mountaineer for two public notices for foreclosed private property that the county purchased over a year ago? If she did not, why not?
- **David Francis** - Why did he bid on two (2) private properties at a foreclosure sale that he initiated, when he has no authority to bid on foreclosed private property?
- **June Ray** - Has **June Ray** (Clerk of Superior Court) ever completed an audit of these two foreclosure sales (a requirement outlined in North Carolina General Statutes), or conducted any audit? If not, why not?
- **Vicki Hyatt** - Why has the Mountaineer allowed two unpaid Affidavits of Publication from the county for Public Notices for over a year? Is this Selective Billing? What gives?

Hang on folks! This issue is a wild ride... As you read through this, keep these four people and these questions in mind.

County Purchasing Private Property at Tax Foreclosure Sales.

Haywood County officials, specifically **David Francis**, Haywood County Tax Collector (or his newer title, Tax Administrator) with the full knowledge of County Commissioners, are purchasing private property at foreclosure sales that had been initiated by **David Francis**, and are using Haywood County Taxpayer funds (IOU’s) for these purchases.

When did the county start going into the business of purchasing private property at foreclosure sales that is not for public use using taxpayer money (IOU’s)?

Attempts to get to more information from the county (follow the money) have been blocked with a complete shut-down of information flow from **Julie Davis**, Financial Director, **Marty Stamey**, County Manager, and **David Francis**, Tax Collector. **Julie** and **Marty** have joined **David Francis** down in the bunker with a bunker mentality.

Types of Foreclosures.

There are two (2) basic types of foreclosures, as explained to me by Sherrie Rogers, Register of Deeds.

- Sheriff’s Deed - This is a type of foreclosure that is initiated by the county, **David Francis**, for non-payment of taxes.
- Trustees Deed - This is a type of foreclosure that is initiated by a lender (bank, for example) when a property owner fails to keep up on mortgage or other payment schedule.

Both types will ultimately result in the property being sold on the Courthouse steps (or as of more recently, outside the door of the Justice Center).

This issue will primarily focus on the first type, Sheriff’s Deed, or tax foreclosures, those that **David Francis** has initiated.

Here is an interesting question...

What happens to a property (either type, and in particular, one that was initiated by **David Francis**) if no one bids on the property at the Justice Center door step? No official has been willing to answer this question, but there is talk and discussion of a “list” that floats about that is made privy to [?]. We will get back to this in a subsequent issue when (and if) I get an answer.

Two recent Sheriff’s Deed purchases by the County.

David Francis has completely shut down any flow of anything to me, so it is useless to make further Requests for Public Information to **David Francis** or **Judy Ballard**, i.e., they are in a bunker mentality.

Fortunately, **David Francis** and **Judy Ballard**, both public officials, are not the only game in town. Sheriff’s Deed foreclosures, interestingly enough, pass through the Sheriff’s Office.

[**Editors Note:** Sheriff’s records go back approximately a year and a half, when the Sheriff’s Department started processing Sheriff’s Deed foreclosures. Prior to that, they were processed by **Van Winkle** law firm in Asheville, a third party debt collector. What the [Expletive Deleted]? What arrangement did **David Francis** and the commissioners have with **Van Winkle**?]

With the assistance from Sheriff Greg Christopher, Captain Jason Smiley, and Deputy Mitch Rathbone, a new back door was open for access to public information regarding foreclosures. While making a routine Request for Public Information, I received fourteen (14) recent Sheriff’s Deed sales between the dates of 6/26/2012 - 4/30/2013.

[Editors Note: A complete list of these Sheriff's Deed sales follow immediately after this newsletter.]

There are some interesting and recognizable names on this list of buyers, but the two **red flags** are purchases made by Haywood County.

Name:	Brandy Johansen,	Mark Monroe
PIN:	8700-38-2600	8713-53-6585
Sale Date:	9/25/2013	10/16/2012
Buyer:	Haywood Co.	Haywood Co.
Signed off:	Bobby Suttles	Bobby Suttles
Case File:	12 M 167	12 M 208

These private properties were picked up for 5 - 10 cents on the dollar. I immediately came up with a list of questions for **Julie Davis** (much like the list of questions I created for **David Francis** to respond to, until he dove into his bunker.

[Editors Note: See the following link on www.haywoodtp.net pages 3 and 4 for open questions for **David Francis**.]

[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...](http://www.haywoodtp.net/pubII/121113Francis.pdf)

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

[Editors Note: Additionally, following the end of this newsletter is a dialog with various public officials:

- **Julie Davis** - Haywood County Finance Director
- **Marty Stamey** - Haywood County Manager
- **David Francis** - Tax Collector, Administrator, whatever
- **June Ray** - Clerk of Superior Court]

American Jurisprudence (Federal Case Law).

AMJUR MUNCCORP, § 471, 56 Am. Jur. 2d. Municipal Corporations, Etc. § 471. The following Federal Case Law is from Westlaw.

[Editors Note: "Westlaw [re: from Wikipedia] is one of the primary online legal research services for lawyers and legal professionals in the United States and is a part of West. In addition, it provides proprietary database services. Information resources on Westlaw include more than 40,000 databases of case law, state and federal statutes, administrative codes, newspaper and magazine articles, public records, law journals, law reviews, treatises, legal forms and other information resources."]

"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."

Federal Case Law trumps policies and ordinances approved by our county commissioners. Unless North Carolina General Statutes are written in comportment with Federal Case Law, Federal Case Law takes precedence over North Carolina General Statutes [re: See full Am. Jur. document following Sheriff's Foreclosure List.]

Dialog with Julie Davis, Marty Stamey, David Francis, June Ray.

In an attempt to find out from county officials when they decided to use taxpayer money to pick up Sheriff's Deed tax foreclosures, it was logical to start with **Julie Davis**, Haywood County Finance Director. Surely, she would know which account was being used to make these purchases. In fact, I was bursting with questions:

- When did the county start going into the business of purchasing private property at foreclosure sales that is not for public use using taxpayer money?
- How long has the county been doing this?
- What account is Julie Davis using to make this purchase?
- What happens to the money the county receives when they sell these properties? Is it returned to taxpayers?
- What happens to a property if no one bids on the property?
- Who made the actual bid for these two properties on the courthouse steps?
- Is this sanctioned by the county commissioners?
- Who authorized this bidding?
- How many properties has Haywood County picked up at foreclosure sales?
- What was the average bid price relative to property value, i.e. how many cent's on the dollar was bid for private property?
- How many of these properties were re-sold by the county?
- When were they sold?
- What was the profit the county made selling these properties?
- Who were they sold to?
- Were there any kick-backs?
- For what legitimate purpose were these purchases of private foreclosure properties made?

[Editors Note: To date, no public official has stepped forward to answer these questions. Rather, they have all dove into the bunker. An interesting e-mail dialog with these county officials follows the Am. Jur. document.]

This questions will all peacefully go away, if only someone would start answering them. Hunkering down only makes one look guilty - and the list is growing.

Multiple requests were initially sent to **Julie Davis**. **Julie Davis** never responded initially, with **Marty Stamey** providing the first obfuscation, who declared "These are tax foreclosure properties and not property acquisitions as you state in your emails." [re: e-mail from **Stamey**, June 24, 2013].

What the [expletive deleted]?

I'm thinking **Marty** just broke some laws here by a

government official obviously providing false statements in an e-mail transmission. He recommended I get answers from **David Francis**. Hah! As we might all recall, **David Francis** dove into a bunker when presented with 30 or so questions relating to his Personal Property Letters and has refused to answer anything [re: see previous link.]

But **David Francis** bit and responded, and directly contradicted **Marty Stamey** when he said: "When the county has a sale, and no one bids on the real property, the county is left with no option but to bid on the property. The county by default is the last and highest bidder when no one bids on the property. The county's bid is only the amount of taxes and cost."

What? This directly contradicts AMJUR MUNCCORP, § 471! **Francis** has no authority to bid on foreclosed private property.

Additionally, when **Francis** said: "The county's bid is only the amount of taxes and cost." he erred again.

[Editors Note: As we shall see, there were other expenses associated with these bids that the county was supposed to be responsible for, but failed to ever pay for. See "Tax Foreclosure Sale worksheets in the following link.]

<http://haywoodtp.net/pubII/130715-12M167-12M208.pdf> ,
[Haywood County purchases of Sheriff's Deed Tax Foreclosed Private Property. 7/15/2013...](http://haywoodtp.net/pubII/130715-12M167-12M208.pdf)

<http://haywoodtp.net/pubII/130715-12M167-12M208.pdf>

There were other expenses in the sale, namely Advertisement Fees, Sheriff's Fee and Certified Mail Fees. According to **Julie Davis**, these payments are still pending, as we shall see.

Julie Davis (who at this time was on a well deserved vacation) decided to finally chime in by blowing me off, when she said: "You can find all properties owned by the county on the Register of Deeds section of the county website. Any proceeds the county collects for taxes is shown in the tax revenue line item for the year due." [re: **Julie Davis** e-mail June 24, 2013].

How many answers to the questions I have begun to develop can be answered by going to the Register of Deeds section of the county website? Zero (0)!!! I never asked what the proceeds the county collects for taxes, but instead finances related to the purchase and sale of these tax foreclosures of private property. I was blown off...

There was a complete metamorphic change in **Stamey's** attitude with his next e-mail. He became respectful and, for the first time, offered a NC General Statue to attempt to back up what the county was doing. He also provided cover for **Julie Davis** when he said: "Julie's response should be sufficient in directing you to where the information is readily available on the County website for research by anyone. I do not have a public document with the information you are requesting. Proceeds collected for taxes are shown in the tax revenue line item for the year

due as **Julie** previously stated."

Stamey does "not have a public document with the information ..." I am requesting?

What? Is this a private document?

Again, I did not ask for proceeds collected for taxes. I am now getting an official run-a-round.

Since these transactions must pass through the Clerk of Superior Court (**June Ray**), I was interested to see if any costs for these purchases passed through the Clerk of Court. [re: e-mail's to **June Ray** starting June 29, 2013].

Well, let's try **Julie Davis** again... "I would like to discuss the following properties with you, and evidently clarify my request for public information to you. Please arrange a time that I can come in and talk to you.", to which I received her response:

"There is no need to arrange a time for discussion, as you have requested. You can find all the properties that the county owns on the county website. And you can find all the N. C. statutes related to tax collection on the internet. If you have any speculative criticism or would like to make false accusations, I do not consider it a proper use of my time." [re: e-mail July 2, 2013].

So, **Julie Davis** basically told me to "go to hell", and dove into the same bunker currently being occupied by **David Francis**.

Sheriff's Deed, 12 M 167 & 12 M 208.

The Sheriff's Deed states, in part:

" ... (File #12 M 167), and after due advertisement in accordance with law, did offer for sale and did sell, at public auction for cash to the highest bidder, at the courthouse door in Haywood County, on the 25th day of September, 2012, real property herein described, when and where Haywood County became the last and highest bidder for the same at the price of \$ 1,622.23; and

WHEREAS, the sale has been confirmed by order of the superior court, and Haywood County, party of the second part, has fully paid the amount of the bid to the part of the first part;"

This Sheriff's Deed was signed by Bobby Suttles, and the bid was administered by Mitch Rathbone, Haywood County Sheriff's Deputy.

I asked Mitch Rathbone two questions.

1. Who made the bid for the County? Rathbone indicated **David Francis** bid on these two purchases of private property.
2. Was any cash transferred or paid to the Sheriff's Department at the sale? Rathbone said, "No".

Report of Sale.

Another document in file# 12 M 167, is a "REPORT OF SALE, signed by Mitch Rathbone. It states, in part,

"That pursuant to the power and authority vested in me as Deputy Sheriff under a judgement entered in this action by the Honorable Jule L. Ray, of the Superior Court of Haywood County, I offered for sale at public auction for cash to the last and highest bidder, on the 25th day of September, 2012, at 1:30 pm at the courthouse door in Haywood County, the real property described in the judgement in this action after due advertisement of the sale in the manner prescribed by law, at which time and place Haywood County became the last and highest bidder for the property for the amount of \$1,622.23".

Again, Mitch Rathbone confirmed that he received **no cash** for this process from **David Francis**.

Mitch Rathbone then indicated that the Sheriff's Office maintained a "spreadsheet" of costs associated with each foreclosure. I requested and received copies of these two foreclosure spreadsheets, which contained costs that should have been paid by the buyer, in this case, Haywood County.

Within those spreadsheets are references to Advertisement Fees. The Sheriff's Office places the ad, and an Affidavit of Publication is sent by the newspaper to the buyer for payment. There is an Affidavit of Publication for 12 M 208, but interestingly enough, none in the file for 12 M 167. The ad was placed in the Mountaineer, and the Affidavit of Publication was signed by Jonathan Key, the Publisher.

I sent off another Request for Public Information on July 10, 2013, asking **Julie Davis** and **David Francis** who paid the advertising costs for these two foreclosures, and what account (from the chart of accounts) were these paid from. [re: e-mail to **Julie Davis** and **David Francis** July 10, 2013].

After some dancing around by **Julie Davis**, she finally admitted: "The county has not yet paid the Mountaineer for the two advertisements that you mentioned in your request. I will be happy to let you know the specific account number and the fund from which these are paid, when they are, eventually, paid. Julie".

There was no good way for **Julie Davis** to respond to this request for public information, i.e., a Catch 22 question...

- If she admitted to paying for the two ad's, she would have admitted being part of this alleged scheme and would have had to divulge the account number this money came from,
- By admitting that these costs were not paid, she now throws two other people under the bus, **June Ray**, Clerk of Superior Court, and the Mountaineer.

I immediately fired off an e-mail to **Vicki Hyatt** and **Jonathan Key**: "Vicki Hyatt and Jonathan Key, You got anything to say about this?", to which I have never received a reply [re: e-mail July 12, 2013]. This can only mean (pick one) -

- The Mountaineer is willing to look the other way when pressing the county for past due billing, or
- They are allegedly cooperating in this alleged scheme of the county purchasing private property.

Back to **June Ray**... The Sales Procedure provided by Legal Aid of North Carolina stated under items c. and d. -

- c. Person who holds a sale of real property must file a final report within thirty (30) days after receipt of the proceeds of the sale.

d. Clerk audits the account.

In addition, North Carolina General Statutes indicate:

§ 1-339.31. Public sale; report of commissioner or trustee in deed of trust.

- (b) The clerk shall audit and record the reports and accounts required to be filed pursuant to this section.

Great! I'll ask **June Ray** for the audits of the two foreclosure sale, 12 M 167 and 12 M 208! After what appeared to be several blow-off's, I finally asked: "Ms. Ray, Let's be blunt. Did you complete the audits or not?" [re: e-mail to **June Ray**, July 16, 2013].

I have never received a final response from **June Ray**. This, of course, was another Catch 22 question.

- How could she have completed an audit if **Julie Davis** never paid off the Advertising Fee to the Mountaineer? If she signed off on that audit, she would be part of this alleged scheme.
- If she never completed the audit (within 30 days), she would be failing to perform a public duty as required by both North Carolina General Statutes and the Oath of Office that she took.

[re: <http://haywoodtp.net/pubII/120420Oaths.pdf>].

Reviewing the initial synopsis.

Let's see, did we cover all four (4) items?

- **Julie Davis** - check.
- **David Francis** - check.
- **June Ray** - check.
- **Vicki Hyatt** - check.

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

Monroe A. Miller Jr.,
Haywood County Taxpayer
19 Big Spruce Lane
Waynesville, NC 28786
www.haywoodtp.net

**Sheriff's Foreclosure List
June 20, 2013**

The following lists Sheriff's Foreclosures for the period 6/26/2012 - 4/30/2013.

This list was obtained by a request for Public Information, and is additionally found on <http://search.haywooddeeds.com/index.php> , and search for the name Suttles, B.

Name	Parcel Number	Date	Buyer	Deed signed by:
Carver, Kenneth	8638-70-3794	6/26/2012	Kentrina Price	Suttles
Daniels, Kevin	8636-36-4502	9/25/2012	Jonathan Song	Suttles
Johansen, Brandy	8700-38-2600	9/25/2012	Haywood County	Suttles
Castellano, Margurite	8618-33-2388	10/16/2012	Lee Bell	Suttles
Macinnes, Jacklyn	8878-56-7270	10/16/2012	Michael Norboge	Suttles
Monroe, Mark	8713-53-6585	10/16/2012	Haywood County	Suttles
Pictures of Light, Inc	8814-73-3334	10/16/2012	Randal Rogers	Suttles
Casey, Carrie	8678-44-8972	11/13/2012	Duval Smith	Suttles
Chambers, Bruce	8604-04-4581	11/27/2012	James Campbell	Suttles
Ketner, Sally	8606-39-9323	11/27/2012	Kyle Edwards Const.	Suttles
Rodriguez, Gustavo	8878-45-7139	11/27/2012	Duval Smith	Suttles
Fowler, Howard	8663-17-5932	3/26/2013	Graves 196, LLC	Christopher
Wylie, Duncan	8663-07-7969	3/26/2013	Graves 196, LLC	Christopher
Stone, George	7695-55-4257	4/30/2013	Kristie Twinning	Christopher

Some of the Buyers names are recognizable to me, but the two that stand out are in bold: **Haywood County**.

These parcels were/are private property. When did Julie Davis and David Francis go into the business of buying up foreclosed land with Haywood County Taxpayer Funds?

If the county is buying up all these private properties at foreclosure for 5 - 10 cents on the dollar, are they ever selling them?

If so, since taxpayer money was used, in part, to purchase these private properties, when do the Taxpayers of Haywood County get to share in any proceeds?

But wait!

The county (Julie Davis and David Francis) have no authority to purchase private property. Only land that will be used for a public purpose can be purchased. There is no way on God's Green Earth that these private properties in the middle of the mountains will ever be used as public land.

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

E-mail exchanges.

[**Editors Note:** This is an e-mail exchange between several county/state/private employees,

- **Julie Davis**, Haywood County Finance Director,
- **Marty Stamey**, Haywood County Manager,
- **David Francis**, Elected Haywood County Tax Collector (and sometimes Tax Administrator, whatever),
- **June Ray**, Clerk of Superior Court
- **Vicki Hyatt**, News Editor, the Mountaineer.

Any effort that I made directed at “following the money” on Haywood County purchasing two (2) Sheriff’s Deed tax foreclosure has been blunted or obfuscated.

This e-mail exchange has been sequenced such that the earliest e-mail is first, i.e., it appears in the natural order of being sent and received.]

Monroe A. Miller Jr.

----- Original Message -----

Subject: Haywood County purchasing foreclosed properties?

Date: Fri, 21 Jun 2013 09:25:09 -0400

From: Monroe Miller

To: Julie Davis <jhdavis@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, Mark Swanger <markswanger@bellsouth.net>, Bill Upton <billupton@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>

CC: Greg Christopher <gchristopher@haywoodnc.net>, David Francis <dbfrancis@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>

Julie,

Can you tell me when Haywood County went into the business of purchasing foreclosed properties?

It came to my attention that two recent foreclosures were picked up by Haywood County. The PIN's are:

8700-38-2600

8713-53-6585

See the attached Sheriff's Deeds.

What account did you use to purchase these?

Who approved these purchases? I have been going to county commission meetings about 4 years, and I don't recall you ever getting authorization from commissioners to buy up foreclosed land.

What business does Haywood County have using taxpayer money to buy up land that went to foreclosure?

Thanks,

Monroe Miller

----- Original Message -----

Subject: Re: Haywood County purchasing foreclosed properties?

Date: Sat, 22 Jun 2013 10:24:07 -0400

From: Monroe Miller

To: Julie Davis <jhdavis@haywoodnc.net>

CC: Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, Mark Swanger <markswanger@bellsouth.net>, Bill Upton <billupton@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Greg Christopher <gchristopher@haywoodnc.net>, David Francis <dbfrancis@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>, Marty Stamey <MStamey@haywoodnc.net>

Julie,

Please see attached, § 471. Property for municipal or public purposes.pdf, from Westlaw - Amjur [Check with Kirkpatrick, he should know what this is].

It states: "Municipalities may acquire and hold title to real property only for legitimate corporate purposes. ..."

Can you explain to me for what legitimate corporate purposes you purchased the two referenced properties?

Has this happened before? If so, I am making a public information request from you to provide PIN, Deed Book / Page numbers for all property Haywood County has purchased in this manner (Sheriff Deeds) for the past ten (10) years.

Additionally, if the county has sold any such properties, where do you show the proceeds, since you are picking this stuff up between 5 - 10 cents on the dollar of appraised value. Please include the chart of account numbers and printouts.

Thanks,

Monroe Miller

bcc:

----- Original Message -----

Subject: Appearance of Misappropriation of funds.

Date: Sun, 23 Jun 2013 18:27:55 -0400

From: Monroe Miller

To: Julie Davis <jhdavis@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>

CC: Mark Swanger <markswanger@bellsouth.net>, Bill Upton <billupton@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Greg Christopher <gchristopher@haywoodnc.net>, David Francis <dbfrancis@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>, Marty Stamey <MStamey@haywoodnc.net>

Julie,

I haven't received any response from this by anyone. Not even a flip response from Francis.

There is a serious problem of the appearance of misappropriation of funds here. From § 471. Property for municipal or public purposes.pdf :

"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."

There is no way on God's Green Earth that these referenced properties can, in any way, shape or form, be connected with a public use.

It seems to me that there is a likelihood that some people are looking at jail time here.

Please respond. Let me know if I have to contact state and/or federal authorities and get them involved. Local authorities have already been notified.

Thank you,

Monroe Miller

----- Original Message -----

Subject: RE: Appearance of Misappropriation of funds.

Date: Mon, 24 Jun 2013 13:51:05 +0000

From: Marty Stamey <MStamey@haywoodnc.net>

To: Monroe Miller

CC: Mark S. Swanger <markswanger@bellsouth.net>, Bill L. Upton <billupton@bellsouth.net>, Michael T. Sorrells <sorrells@cbvnol.com>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, David Francis <DBFrancis@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>, Julie Davis <jhdavis@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, Chip Killian <CKillian@haywoodnc.net>

These are tax foreclosure properties and not property acquisitions as you state in your emails. Julie is on a well deserved vacation; therefore, please direct your questions to David Francis so he can assist you.

Marty

[**Editors Note:** Stamey comment highlighted and underlined in red. This is a false statement, and I don't see how a County Manager can get away with making false statements in a written document.]

----- Original Message -----

Subject: Re: Appearance of Misappropriation of funds.

Date: Mon, 24 Jun 2013 10:01:28 -0400

From: Monroe Miller

To: Marty Stamey <MStamey@haywoodnc.net>

CC: Mark S. Swanger <markswanger@bellsouth.net>, Bill L. Upton <billupton@bellsouth.net>, Michael T. Sorrells <sorrells@cbvnol.com>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, David Francis <DBFrancis@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>, Julie Davis <jhdavis@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, Chip Killian <CKillian@haywoodnc.net>

Marty,

Francis refuses to respond to my questions [re: <http://haywoodtp.net/pubII/121113Francis.pdf>], but not after July 1, 2013. So, in the meanwhile, I will have to rely on you to act as a go-between between Francis and me.

Check the Sheriff's Deeds, previously attached. It says, in part: "... did offer for sale and did sell, ... real property herein described, when and where Haywood County became the last and highest bidder for the same at the price of \$1,769.51 ..." BK 837, PG: 1779.

Why don't you ask the county financial auditor, I think her last name is Crawford.

Monroe Miller

----- Original Message -----

Subject: RE: Appearance of Misappropriation of funds.

Date: Mon, 24 Jun 2013 15:58:13 +0000

From: David Francis <DBFrancis@haywoodnc.net>

To: Monroe Miller

CC: Mark S. Swanger <markswanger@bellsouth.net>, Bill L. Upton <billupton@bellsouth.net>, Michael T. Sorrells <sorrells@cbvnol.com>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>, Julie Davis <jhdavis@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, Chip Killian <CKillian@haywoodnc.net>, Marty Stamey <MStamey@haywoodnc.net>

Mr. Miller:

The reason you did not receive a "flip" answer was the email was not addressed to me you addressed it to Julie.

Each year tax collectors in North Carolina are charged with the collection of taxes which specifically states "that this order shall be a full and sufficient authority to direct, require and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law."

Furthermore, NCGS gives Tax Collectors the power to foreclose against real property which requires court order before the property can be sold to satisfy outstanding taxes. All properties are sold in strict accordance to these statutes. When the county has a sale, and no one bids on the real property, the county is left with no option but to bid on the property. The county by default is the last and highest bidder when no one bids on the property. The county's bid is only the amount of taxes and cost.

If you had been paying attention at the April 15th meeting of this year these properties were discussed and the method of disposal for the foreclosed property was approved by the BOCC. I have attached the link to refresh your selective memory.

http://www.haywoodnc.net/index.php?option=com_content&view=article&id=1424:news-boccag041513&catid=57:Info&Itemid=194

Nothing changes on July 1st. I still don't and won't have to sit down with you or answer any of your questions. The only reason I replied today is to defend another county employee from your allegations. Haywood County has received The Certificate of Achievement in Financial Reporting for the past 17 years. For you to accuse Julie Davis or anyone on the Haywood County staff of misappropriation of funds is totally baseless and borderline slanderous. You are up to your same old tricks of false and baseless accusations just as you did last July when you made erroneous accusations against Dale Burris.

If you need further explanation of how the foreclosure process works, you can find ample information on the internet.

David B Francis
Haywood County Tax Administrator & Collector
215 N Main Street
Waynesville, NC 28786
828-356-2631

----- Original Message -----

Subject: Re: Appearance of Misappropriation of funds.

Date: Mon, 24 Jun 2013 13:18:04 -0400

From: Monroe Miller

To: Marty Stamey <MStamey@haywoodnc.net>

CC: David Francis <DBFrancis@haywoodnc.net>, "Mark S. Swanger" <markswanger@bellsouth.net>, "Bill L. Upton" <billupton@bellsouth.net>, "Michael T. Sorrells" <sorrells@cbvnol.com>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>, Julie Davis <jhdavis@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, Chip Killian <CKillian@haywoodnc.net>

Mr. Stamey,

Looks like Francis just contradicted your prior statement "These are tax foreclosure properties and not property acquisitions ..." when he said:

"When the county has a sale, and no one bids on the real property, the county is left with no option but to bid on the property. The county by default is the last and highest bidder when no one bids on the property. The county's bid is only the amount of taxes and cost."

The "policy" Francis quoted was Appendix 6 from the April 15th County Commission meeting. The two instances of Haywood County purchasing this property were sale dates of 9/25/2012 and 10/16/2012, months before this "policy" was approved by the commissioners. Under any circumstances, Federal Case Law (American Jurisprudence § 471. Property for municipal or public purposes.pdf) trumps any policy or ordinance adopted by these county commissioners. Restating AmJur Case Law: "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."

It has been recommended to me that the IRS CID be alerted to take a look into all of this. I'll check it out.

Since Julie is on a well deserved vacation (I though you would be on a well deserved vacation also), can you acknowledge and start processing my request for public information I requested of Julie on June 22?

Has this happened before? If so, I am making a public information request from you to provide PIN, Deed Book / Page numbers for all property Haywood County has purchased in this manner (Sheriff Deeds) for the past ten (10) years.

Additionally, if the county has sold any such properties, where do you show the proceeds, since you are picking this stuff up between 5 - 10 cents on the dollar of appraised value. Please include the chart of account numbers and printouts.

Thanks

Monroe Miller

----- Original Message -----

Subject: RE: Haywood County purchasing foreclosed properties?

Date: Mon, 24 Jun 2013 18:04:13 +0000

From: Julie Davis <jhdavis@haywoodnc.net>

To: Monroe Miller

CC: Chip Killian <CKillian@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, "Mark S. Swanger" <markswanger@bellsouth.net>, "Bill L. Upton" <billupton@bellsouth.net>, "Michael T. Sorrells" <sorrells@cbvnol.com>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, David Francis <DBFrancis@haywoodnc.net>, "Jonnie Cure" <jcubed41@gmail.com>, Marty Stamey <MStamey@haywoodnc.net>

Mr. Miller,

You can find all properties owned by the county on the Register of Deeds section of the county website. Any proceeds the county collects for taxes is shown in the tax revenue line item for the year due.

Julie

----- Original Message -----

Subject: RE: Appearance of Misappropriation of funds.

Date: Mon, 24 Jun 2013 20:38:22 +0000

From: Marty Stamey <MStamey@haywoodnc.net>

To: Monroe Miller

CC: David Francis <DBFrancis@haywoodnc.net>, "Mark S. Swanger" <markswanger@bellsouth.net>, "Bill L. Upton" <billupton@bellsouth.net>, "Michael T. Sorrells" <sorrells@cbvnol.com>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>, Julie Davis <jhdavis@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, Chip Killian <CKillian@haywoodnc.net>

Julie's response should be sufficient in directing you to where the information is readily available on the County website for research by anyone. I do not have a public document with the information you are requesting. Proceeds collected for taxes are shown in the tax revenue line item for the year due as Julie previously stated.

NCGS § 105-376 gives counties broad powers to purchase property at a county tax foreclosure sale and either retain it for a public purpose, or sell it at such time as the county sees fit.

§ 105-376. Taxing unit as purchaser at foreclosure sale; payment of purchase price; resale of property acquired by taxing unit.

(a) Taxing Unit as Purchaser. - Any taxing unit (or two or more taxing units jointly) may bid at a foreclosure sale conducted under G.S. 105-374 or G.S. 105-375, and any taxing unit that becomes the successful bidder may assign its bid at any time by private sale for not less than the amount of the bid.

(b) Payment of Purchase Price by Taxing Units; Status of Property Purchased by Taxing Units. - Any taxing unit that becomes the purchaser at a tax foreclosure sale may, in the discretion of its governing body, pay only that part of the purchase price that would not be distributed to it and other taxing units on account of taxes, penalties, interest, and such costs as accrued prior to the initiation of the foreclosure action under G.S. 105-374 or docketing of a judgment under G.S. 105-375. Thereafter, in such a case, the purchasing taxing unit shall hold the property for the benefit of all taxing units that have an interest in the property as defined in this subsection (b). All net income from real property so acquired and the proceeds thereof, when resold, shall be first used to reimburse the purchasing unit for disbursements actually made by it in connection with the foreclosure action and the purchase of the property, and any balance remaining shall be distributed to the taxing units having an interest therein in proportion to their interests. The total interest of each taxing unit, including the purchasing unit, shall be determined by adding:

(1) The taxes of the unit, with penalties, interest, and costs (other than costs already reimbursed to the purchasing unit) to satisfy which the property was ordered sold;

(2) Other taxes of the unit, with penalties, interest, and costs which would have been paid in full from the purchase price had the purchase price been paid in full;

(3) Taxes of the unit, with penalties, interest, and costs to which the foreclosure sale was made subject; and

(4) The principal amount of all taxes which became liens on the property after purchase at the foreclosure sale or which would have become liens thereon but for the purchase, but no amount shall be included for taxes for years in which (on the day as of which property was to be listed for taxation) the property was being used by the purchasing unit for a public purpose.

If the amount of net income and proceeds of resale distributable exceeds the total interests of all taxing units defined in this subsection (b), the remainder shall be applied to any special benefit assessments to satisfy which the sale was ordered or to which the sale was made subject, and any balance remaining shall accrue to the purchasing unit.

When any real property that has been purchased as provided in this section is permanently dedicated to use for a public purpose, the purchasing unit shall make settlement with other taxing units having an interest in the property (as defined in this subsection) in such manner and in such amount as may be agreed upon by the governing bodies; and if no agreement can be reached, the amount to be paid shall be determined by a resident judge of the superior court in the district in which the property is situated.

Nothing in this section shall be construed as requiring the purchasing unit to secure the approval of other interested taxing units before reselling the property or as requiring the purchasing unit to pay other interested taxing units in full if the net income and resale price are insufficient to make such payments.

Any taxing unit purchasing property at a foreclosure sale may, in the discretion of its governing body, instead of following the foregoing provisions of this section, make full payment of the purchase price, and thereafter it shall hold the property as sole owner in the same manner as it holds other real property, subject only to taxes and special assessments, with penalties, interest, and costs, to which the sale was made subject.

(c) Resale of Real Property Purchased by Taxing Units. - Real property purchased at a tax foreclosure sale by a taxing unit may be resold at any time (for such price as the governing body of the taxing unit may approve) at a sale conducted in the manner provided by law for sales of other

real property of the taxing unit. However, a purchasing taxing unit, in the discretion of its governing body, may resell such property to the former owner or to any other person formerly having an interest in the property at private sale for an amount not less than the taxing unit's interest therein if it holds the property as sole owner or for an amount not less than the total interests of all taxing units (other than special assessments due the taxing unit holding title) if it holds the property for the benefit of all such units. (1939, c. 310, s. 1719; 1945, c. 635; 1947, c. 484, ss. 3, 4; 1951, c. 300, s. 1; c. 1036, s. 1; 1953, c. 176, s. 2; 1955, c. 908; 1967, c. 705, s. 1; 1971, c. 806, s. 1.)

Thanks,

Marty

----- Original Message -----
Subject: Request for Public Information
Date: Sat, 29 Jun 2013 08:27:24 -0400
From: Monroe Miller
To: June Ray <June.L.Ray@nccourts.org>

Please see attached.
[Editors Note: Attachment inserted here.]

Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786
June 29, 2013

June Ray
Clerk of Superior Court
June.L.Ray@nccourts.org

Subject: Request for Public Information.

This is a request for public information relating to payments to you of what you described as “Surplus Funds” and received from the Haywood County Finance Department for recent purchases of foreclosed property by Haywood County.

The following information describes the PIN’s and File numbers.

PIN	File #	Bid Price	Tax Owed	Judgement for tax
8700-38-2600	12 M 167	\$1,622.23	\$760.50	\$1,153.53
8713-53-6585	12 M 208	\$1,769.51	\$827.23	\$1,382.01

The difference between the Bid Price and the Judgement for Tax is what you had described as “Surplus Funds”. Please provide a copy of the checks for these two amounts that you received from the Julie Davis’ Finance Department. If this amount was included as a portion of a larger check which includes this amount, please provide the documentation which describes this portion of the check which includes this “Surplus Funds” as a portion.

If you have additional information on other ancillary costs and how they were paid related to the judgement for taxes, i.e.,

Publication and Mail Cost
Administrative Cost
Clerk of Court

please include those also.

I am requesting this public information from you, as you are the custodian of these public records.
Thank you,
Monroe A. Miller Jr.
bcc:

----- Original Message -----

Subject: RE: Request for Public Information

Date: Tue, 2 Jul 2013 13:38:16 +0000

From: Ray, June L. <June.L.Ray@nccourts.org>

To: Monroe Miller

We do not have any surplus funds on either one of these cases.

----- Original Message -----

Subject: Re: Appearance of Misappropriation of funds.

Date: Tue, 02 Jul 2013 11:11:44 -0400

From: Monroe Miller

To: Julie Davis <jhdavis@haywoodnc.net>

CC: Marty Stamey <MStamey@haywoodnc.net>, David Francis <DBFrancis@haywoodnc.net>, "Mark S. Swanger" <markswanger@bellsouth.net>, "Bill L. Upton" <billupton@bellsouth.net>, "Michael T. Sorrells" <sorrells@cbvnol.com>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Jonnie Cure <jcubed41@gmail.com>, Leon Chip Killian <chip.killian@nelsonmullins.com>, Chip Killian <CKillian@haywoodnc.net>, June Ray <June.L.Ray@nccourts.org>

Julie,

I would like to discuss the following properties with you, and evidently clarify my request for public information to you. Please arrange a time that I can come in and talk to you.

Thank you,

Monroe Miller

----- Original Message -----

Subject: information request

Date: Tue, 2 Jul 2013 15:42:53 +0000

From: Julie Davis <jhdavis@haywoodnc.net>

To: Monroe Miller

CC: Marty Stamey <MStamey@haywoodnc.net>

Mr. Miller,

There is no need to arrange a time for discussion, as you have requested. You can find all the properties that the county owns on the county website. And you can find all the N. C. statutes related to tax collection on the internet. If you have any speculative criticism or would like to make false accusations, I do not consider it a proper use of my time.

Julie

Julie H. Davis, Finance Director
Haywood County
215 N. Main Street
Waynesville, NC 28786
828-452-6724 phone
828-452-6725 fax

----- Original Message -----

Subject: Re: information request

Date: Tue, 02 Jul 2013 14:52:57 -0400

From: Monroe Miller

To: Julie Davis <jhdavis@haywoodnc.net>

CC: Marty Stamey <MStamey@haywoodnc.net>, Greg Christopher <gchristopher@haywoodnc.net>, June Ray <June.L.Ray@nccourts.org>, Mark Swanger <markswanger@bellsouth.net>, Bill Upton <billupton@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Jonnie Cure <jcubed41@gmail.com>, Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, David Francis <dbfrancis@haywoodnc.net>

Julie,

Noted.

Monroe Miller

----- Original Message -----

Subject: Request for Public Information.

Date: Wed, 10 Jul 2013 09:43:45 -0400

From: Monroe Miller

To: Julie Davis <jhdavis@haywoodnc.net>, David Francis <dbfrancis@haywoodnc.net>

CC: Greg Christopher <gchristopher@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Killian <chip.killian@nelsonmullins.com>, Mark Swanger <markswanger@bellsouth.net>, Michael Sorrells <sorrells@cbvnol.com>, Bill Upton <billupton@bellsouth.net>, Jonnie Cure <jcubed41@gmail.com>, June Ray <June.L.Ray@nccourts.org>, Marty Stamey <MStamey@haywoodnc.net>, Vicki Hyatt <vhyatt@themountaineer.com>, Jonathan Key <jkey@themountaineer.com>

Please see attached.

----- Original Message -----

Subject: information request

Date: Tue, 2 Jul 2013 15:42:53 +0000

From: Julie Davis <jhdavis@haywoodnc.net>

To: Monroe Miller

CC: Marty Stamey <MStamey@haywoodnc.net>

Mr. Miller,

There is no need to arrange a time for discussion, as you have requested. You can find all the properties that the county owns on the county website. And you can find all the N. C. statutes related to tax collection on the internet. If you have any speculative criticism or would like to make false accusations, I do not consider it a proper use of my time.

Julie

Julie H. Davis, Finance Director
Haywood County
215 N. Main Street
Waynesville, NC 28786
828-452-6724 phone
828-452-6725 fax

[**Editors Note:** Attachment follows on the next page.]

Monroe A. Miller, Jr.
19 Big Spruce Lane
Waynesville, NC 28786
July 10, 2013

Julie Davis, Director
Haywood County Finance Department
215 N. Main Street
Waynesville, NC 28786
jhdavis@haywoodnc.net

and

David Francis
Haywood County Tax Collector
215 North Main Street
Waynesville, NC 28786
dbfrancis@haywoodnc.net

Subject: Request for Public Information.

This is a request for public information. I am sending it to the both of you simultaneously, so that you can work together, in concert, in providing this information, alleviating the possible excuse that the other person has that information. Both of you are the respective custodians of this public information.

I visited the Sheriff's Office yesterday, and was able to pick up some additional information relating to the two case files -

12 M 167
12 M 208

that was not contained in the original files at the Justice Center. They are two (2) spread sheets associated with the **purchase of private properties** by Haywood County, and specifically bid by David Francis. Please see the spreadsheets enclosed at the end of this letter.

Please note the first line item after the "Less Expenses:" category, which is Advertisement Fees. These expenses are for advertising this foreclosure sale in the Mountaineer. Please see an example of one of the advertisements at the end of the letter, following the two spreadsheets. It is shown with an accompanying AFFIDAVIT OF PUBLICATION, signed by Jonathan Key, publisher of the Mountaineer.

Now for the request. I would like to inspect copies of the two checks (or whatever form of payment record) that were paid from whatever fund you (Julie Davis) used to pay off the Mountaineer for these two advertisements. Additionally, I would like to know the specific Chart of Accounts number that you (Julie Davis) drew from to create these checks.

Thank you for your assistance.

Monroe A. Miller Jr.

JUL 9 2013

Tax Foreclosure Sale
Brandy M. Johansen and Spouse 12 M 167

Selling Price: \$0.00
Cash Payment Amount: \$0.00

Less Expenses:

Advertisement Fees \$365.68
Sheriff's Fee \$42.55
Certified Mail \$11.90
Deed Preparation \$0.00
Tax amount \$1,202.10

Total Expenses: \$1,622.23

Less Miscellaneous:

Upset bid amount left with clerk

Proceeds of Sale : -\$1,622.23

***These amounts should agree.**

Amount collected from HCSD:

Less Tax Lien Amount:

Surplus to be deposited with HCCSC: \$0.00

Calculated by:

Officer: _____
Bookkeeper: _____
Date: _____

JUL 9 2013

Tax Foreclosure Sale
Mark Monroe, Trustee of Hurricane Ridge Trust 12 M 208

Selling Price: \$0.00
Cash Payment Amount: \$0.00

Less Expenses:

Advertisement Fees \$274.48
Sheriff's Fee \$48.38
Certified Mail \$11.50
Deed Preparation \$0.00
Tax amount \$1,435.15

Total Expenses: \$1,769.51

Less Miscellaneous:

Upset bid amount left with clerk

Proceeds of Sale : -\$1,769.51

***These amounts should agree.**

Amount collected from HCSD:

Less Tax Lien Amount:

Surplus to be deposited with HCCSC: \$0.00

Calculated by:

Officer: _____
Bookkeeper: _____
Date: _____

STATE OF NORTH
CAROLINA
COUNTY OF HAYWOOD
HAYWOOD COUNTY, a
body politic

and corporate, and a political subdivision
of the State of North Carolina,

Plaintiff,

vs.
Mark P. Monroe, as Trustee of
Hurricane Ridge Trust
Marita C. Valentine (Lienholder)
Defendants,

Pursuant to requirements of G.S. 105-375(c),
notice is hereby given to:
Mark P. Monroe
(Tax Lister [s])
Mark P. Monroe, as Trustee of
Hurricane Ridge Trust
(Property Owner [s])

that a judgment of foreclosure will docket against the properties described below on May 18, 2012:

Property Description:
Deed Book 327 Page 426,
Haywood County Registry

Parcel #8713-53-6585,
3.1309 acres land only,
Lot 6, Section B,

Hurricane Ridge, Ltd.,
Fines Creek Township,

Execution will be issued on the judgment and the property will be sold as provided by law. The tax lien, including cost and interest, may be paid before the judgment is docketed and at any time thereafter as allowed by law.

David B. Francis
Haywood County Tax
Collector

No. 30672 May 4 and 11,
2012

NORTH CAROLINA
HAYWOOD COUNTY

AFFIDAVIT OF PUBLICATION

Before the undersigned, a Notary Public of said County and State, duly commissioned, qualified, and authorized by law to administer oaths, personally appeared _____

Penelope Key who being first
duly sworn, deposes and says: that he (she) is _____

Publisher

(Owner, partner, publisher, or other officer or employee authorized to make this affidavit)

of THE MOUNTAINEER

engaged in the publication of a newspaper known as THE MOUNTAINEER
published, issued, and entered as second class mail in the City of
WAYNESVILLE

in said County and State; that he (she) is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in THE MOUNTAINEER on the following dates:

May 4 and 11, 2012

and that the said newspaper in which such notice, paper, document, or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This 11th of May, 2012

Jonathan
Signature of person making affidavit

Sworn to and subscribed before me, this 11th

day of May, 2012

David B. Francis
My Commission expires: May 10, 2017
Notary Public

PUBLICATION

NEER

28786

Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786
July 10, 2013

June Ray
Clerk of Superior Court
June.L.Ray@nccourts.org

Subject: Request for Public Information.

Please find enclosed (following this letter of request for public information) a page on FORECLOSURE, supplied by Legal Aid of North Carolina, Inc.

Under the topic of **Sale Procedure**, items c. and d. state -

- c. Person who holds a sale of real property must file a final report within thirty (30) days after receipt of the proceeds of the sale.
- d. Clerk audits the account.

You are the "Clerk" described in item d.

I would like to inspect your audits for the following case files:

12 M 167
12 M 208

In addition, I would like to inspect your audit of the recent foreclosure action for [... **redacted** ...]

[... **redacted** ...]

I am requesting this public information from you, as you are the custodian of these public records.

Thank you,

Monroe A. Miller Jr.

cc: [... **redacted** ...]

JUL 8 2013

Hous. 13-1: Foreclosure

FORECLOSURE

Notice of Foreclosure Hearing

Served ten (10) days before the hearing by:

- a. delivering copy to party
- b. leaving notice at party's dwelling with person of suitable age
- c. mailing a copy registered or certified mail, return receipt requested

Served twenty (20) days before hearing by:

- a. posting notice on property in a conspicuous place

Notice of Sale

Posted in county in which property located at least twenty (20) days immediately preceding sale.

Sale Procedure

- Seller invites offers. Generally the creditor is the only bidder. **If there are no more upset bids.** (Upset bid is a bid for a higher price than the prior upset bid),
- a. Within five (5) days following the sale to the highest bidder, the person exercising power of sale must file a preliminary report.
 - b. Rights of the parties to sale become fixed if no upset deposit is filed with the clerk by the close of normal business hours on the tenth (10th) day after filing preliminary report of sale.
 - c. Person who holds a sale of real property must file a final report within thirty (30) days after receipt of the proceeds of sale.
 - d. Clerk audits the account.
 - e. The purchaser does not record the deed nor release the purchase funds until the clerk has audited the account and filed it.
 - f. Purchaser not entitled to possession until the purchase price is paid and the deed has been delivered.
 - g. The debtor may remain in possession pending the closing.
 - h. Purchaser must give ten (10) days notice to move out to party who remains in possession.

If there are upset bids

- a. There is no resale after an upset bid; rather each upset bid is followed by a period of ten (10) days for a further upset bid.
- b. The upset bid must be deposited with the clerk within ten (10) days after the report of sale.

Effect of Bankruptcy on Foreclosure

Automatic stay if bankruptcy petition is filed even after the sale, but before the foreclosure is Complete. The foreclosure is complete when ten (10) days have passed without an upset bid being filed.

----- Original Message -----

Subject: RE: Request for Public Information.
Date: Wed, 10 Jul 2013 14:24:45 +0000
From: Ray, June L. <June.L.Ray@nccourts.org>
To: Monroe Miller

As I have told you before, this is a public office and you are more than welcome to come in and pull the files to do research.

From: Monroe Miller
Sent: Wednesday, July 10, 2013 10:13 AM
To: Ray, June L.
Cc: Greg Christopher
Subject: Request for Public Information.

Please see attached.

E-mail correspondence to and from this address may be subject to the North Carolina public records laws and if so, may be disclosed.

----- Original Message -----

Subject: Re: Request for Public Information.

Date: Thu, 11 Jul 2013 10:35:50 -0400

From: Monroe Miller

To: Julie Davis <jhdavis@haywoodnc.net>

CC: David Francis <DBFrancis@haywoodnc.net>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, "Mark S. Swanger" <markswanger@bellsouth.net>, "Michael T. Sorrells" <sorrells@cbvnol.com>, "Bill L. Upton" <billupton@bellsouth.net>, Jonnie Cure <jcubed41@gmail.com>, June Ray <June.L.Ray@nccourts.org>, Marty Stamey <MStamey@haywoodnc.net>, Vicki Hyatt <vhyatt@themountaineer.com>, Jonathan Key <jkey@themountaineer.com>

Julie,

There were two (2) ad's in the request.

Thank you,

Monroe Miller

On 7/11/2013 9:59 AM, Julie Davis wrote:

>
> Mr. Miller,
>
> Your request has been received. I will see what I can find regarding the Mountaineer ad.
>
>
> Julie
>
> Julie H. Davis, Finance Director
> Haywood County
> 215 N. Main Street
> Waynesville, NC 28786
> 828-452-6724 phone
> 828-452-6725 fax

----- Original Message -----

Subject: RE: Request for Public Information.

Date: Fri, 12 Jul 2013 20:51:33 +0000

From: Julie Davis <jhdavis@haywoodnc.net>

To: Monroe Miller, David Francis <DBFrancis@haywoodnc.net>

CC: Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, "Mark S. Swanger" <markswanger@bellsouth.net>, "Michael T. Sorrells" <sorrells@cbvnol.com>, "Bill L. Upton" <billupton@bellsouth.net>, Jonnie Cure <jcubed41@gmail.com>, June Ray <June.L.Ray@nccourts.org>, Marty Stamey <MStamey@haywoodnc.net>, Vicki Hyatt <vhyatt@themountaineer.com>, "Jonathan Key" <jkey@themountaineer.com>

Mr. Miller,

The county has not yet paid the Mountaineer for the two advertisements that you mentioned in your request. I will be happy to let you know the specific account number and the fund from which these are paid, when they are, eventually, paid.

Julie

Julie H. Davis, Finance Director
Haywood County
215 N. Main Street
Waynesville, NC 28786
828-452-6724 phone
828-452-6725 fax

[**Editors Note:** What!]

----- Original Message -----

Subject: Request for Public Information.

Date: Fri, 12 Jul 2013 18:59:39 -0400

From: Monroe Miller

To: Vicki Hyatt <vhyatt@themountaineer.com>, Jonathan Key <jkey@themountaineer.com>

CC: Julie Davis <jhdavis@haywoodnc.net>, David Francis <DBFrancis@haywoodnc.net>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, "Mark S. Swanger" <markswanger@bellsouth.net>, "Michael T. Sorrells" <sorrells@cbvncol.com>, "Bill L. Upton" <billupton@bellsouth.net>, Jonnie Cure <jcubed41@gmail.com>, June Ray <June.L.Ray@nccourts.org>, Marty Stamey <MStamey@haywoodnc.net>, Becky Johnson <becky@smokymountainnews.com>

Vicki Hyatt and Jonathan Key,

You got anything to say about this?

Monroe Miller

On 7/12/2013 4:51 PM, Julie Davis wrote:

>

> Mr. Miller,

>

> The county has not yet paid the Mountaineer for the two advertisements that you mentioned in your request. I will be happy to let you know the specific account number and the fund from which these are paid, when they are, eventually, paid.

>

> Julie

>

> Julie H. Davis, Finance Director

> Haywood County

> 215 N. Main Street

> Waynesville, NC 28786

> 828-452-6724 phone

> 828-452-6725 fax

----- Original Message -----

Subject: Re: Request for Public Information.

Date: Fri, 12 Jul 2013 19:29:53 -0400

From: Monroe Miller

To: Julie Davis <jhdavis@haywoodnc.net>

CC: Vicki Hyatt <vhyatt@themountaineer.com>, Jonathan Key <jkey@themountaineer.com>, David Francis <DBFrancis@haywoodnc.net>, Sheriff Greg Christopher <GChristopher@haywoodnc.net>, Chip Killian <CKillian@haywoodnc.net>, Leon Chip Killian <chip.killian@nelsonmullins.com>, "Mark S. Swanger" <markswanger@bellsouth.net>, "Michael T. Sorrells" <sorrells@cbvnol.com>, "Bill L. Upton" <billupton@bellsouth.net>, Jonnie Cure <jcubed41@gmail.com>, June Ray <June.L.Ray@nccourts.org>, Marty Stamey <MStamey@haywoodnc.net>, Becky Johnson <becky@smokymountainnews.com>

Ms. Davis,

When do you plan on "eventually" paying off these advertising bills?

Are you waiting until the commissioners sell this land for a hansom profit and use the proceeds of that sale to "eventually" pay off the Mountaineer?

If so, are you planning on siphoning that hansom profit for more extravaganzas like this \$675K you are pouring into this building (at Monday's commission meeting) that needed a few rafters replaced, or do you plan on paying off county debt?

Monroe Miller

On 7/12/2013 6:59 PM, Monroe Miller wrote:

> Vicki Hyatt and Jonathan Key,

>

> You got anything to say about this?

>

> Monroe Miller

> On 7/12/2013 4:51 PM, Julie Davis wrote:

>>

>> Mr. Miller,

>>

>> The county has not yet paid the Mountaineer for the two advertisements that you mentioned in your request. I will be happy to let you know the specific account number and the fund from which these are paid, when they are, eventually, paid.

>>

>> Julie

>>

>> Julie H. Davis, Finance Director

>>

>> Haywood County

>> 215 N. Main Street

>> Waynesville, NC 28786

>> 828-452-6724 phone

>> 828-452-6725 fax

----- Original Message -----
Subject: Re: Request for Public Information.
Date: Mon, 15 Jul 2013 14:35:44 -0400
From: Monroe Miller
To: Ray, June L. <June.L.Ray@nccourts.org>
CC: Greg Christopher <gchristopher@haywoodnc.net>

Ms. Ray,

Let's be blunt. Did you complete the audits or not?

Monroe Miller

bcc:

On 7/15/2013 2:19 PM, Ray, June L. wrote:

>
> If they are not in the files they have obviously not been filed.
>
>
>
> From: Monroe Miller
> Sent: Friday, July 12, 2013 11:43 AM
> To: Ray, June L.
> Cc: Greg Christopher
> Subject: Fwd: Re: Request for Public Information.
>
>
> Ms. Ray,
>
> Per your suggestion, I re-examined four (4) files this morning (you passed me in the corridor),
> and I found no audits for
>
> 12 M 167
> 12 M 208
> [... redacted ...]
>
> I renew my request for public information and would like to inspect the audit for these four(4)
> from three (3) files. Let me know when you have located them, since you are the person who was to
> have conducted the audit, and must surely know if you had completed them or not.
>
> Thank you,
>
> Monroe Miller
>
>
>

> ----- Original Message -----

>
> Subject: Re: Request for Public Information.
> Date: Wed, 10 Jul 2013 10:29:22 -0400
> From: Monroe Miller
> To: Ray, June L. <June.L.Ray@nccourts.org>
>
>
>

> The information I requested (audits) is not contained in any of the referenced files.

>
> On 7/10/2013 10:24 AM, Ray, June L. wrote:
>>
>> As I have told you before, this is a public office and you are more than welcome to come in and
>> pull the files to do research.
>>
>>
>>
>> From: Monroe Miller
>> Sent: Wednesday, July 10, 2013 10:13 AM
>> To: Ray, June L.
>> Cc: Greg Christopher
>> Subject: Request for Public Information.
>>
>>
>>
>> Please see attached.