

Unsealed by the Board of Commissioners on 02/12/2024.

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
March 27, 2023 – CLOSED SESSION

Per N.C.G.S. §143-318.11 (a) (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the county and the public body, which privilege is hereby acknowledged, a second closed session was entered into. Present were Chairman Chappell, Commissioners Casciato, Chapman, Dalton, and McCall, County Manager Jaime Laughter, County Attorney Bill Bulfer, and Clerk to the Board Trisha Hogan.

Closed Session #2 – Consult with Attorney on Contract Negotiation
Leachate Agreement

The Manager requested input from the Board of Commissioners and the County Attorney on the negotiating terms of the leachate contract with the Town of Rosman.

The County currently pays the Town of Rosman 2.5 cents per gallon for the disposal of leachate generated by the County's Solid Waste Landfill. The Manager received a proposal from the Town of Rosman to increase the rate to 5 cents per gallon or help the Town pay for certain capital improvements totaling more than \$2 million and up the rate to 3 cents. The Manager pointed out that to help the Town pay for capital improvements, the Board of Commissioners would have to decommit itself from other capital projects, such as purchasing property for an intake, to free up funding. The Manager advised the Commissioners that they must decide quickly because staff will have to file a revised report with State if the choice is not to move forward with the property purchase. She noted that an engineer has already been working on site options and detailing the pros and cons of each.

The Manager recommended the Board agree to the rate increase of 5 cents and continue its pursuit of purchasing property for an intake because it will be for the overall good of the County and the Town. She also reported that the City of Brevard's rate is 5 cents per gallon and suggested gauging their interest on a proposal.

The Commissioners concurred with the Manager's recommendation to agree to a rate increase of 5 cents per gallon and continue pursuing property for an intake using ARPA funds. The Commissioners also directed the Manager to contact the City of Brevard to gauge their interest in negotiating a rate for leachate disposal.

Operation of Champion Pool

The Manager requested input from the Board of Commissioners and the County Attorney on the negotiating terms of the agreement with the Town of Rosman on operating Champion Pool.

The Manager reported that the Town of Rosman has requested additional funding for the operation and upkeep of Champion Pool. The County turned over ownership of the pool to the Town five years ago and agreed to pay the Town \$50,000 annually to help cover the costs of operation and upkeep, with any unspent funds being earmarked for future capital improvements on the pool.

The Town has not been compliant with the original contract. A breakdown of their revenues and expenditures over the last three years shows a \$10,000 shortfall over the period. The shortfall is a result of the Town spending County dollars in other areas, such as their ballfields and Champion Park. The agreement between the County and the Town stipulates that the County's allocation of funds should be spent only on Champion Pool. The Manager intends to request further details from Town

officials on the amount of funds they spent on the pool. Their financial report makes the numbers look inflated because it includes funds spent on Champion Park. She did not recommend an increase in funding for the pool at this time. While there has not been an increase in the last five years, the funding has been more than enough to operate the pool and save dollars for future capital.

The County Attorney and the Manager recommended revisions to the original agreement that include provisions for more accountability and to cover any liability. The contract should be clear in that the County's providing of funds does not cross over into the County having liability. The contract should include risk transfer where the Town agrees to indemnify and hold the County harmless, as well as a waiver of subrogation that prohibits an insurer from pursuing a third party to recover damages for covered losses.

The Town of Rosman is the only entity receiving funds from the County to operate a service. The Board also funds nonprofits, but each operates under a contract that has reporting requirements, performance measures, auditing requirements, etc. The Manager suggested a stipulation that if the Town does not comply with the contract, they do not receive any County funding.

The Board requested more accountability from the Town through yearly reporting. The Board directed staff to include in the contract the revisions as discussed regarding accountability and liability. The Board did not agree to an increase in funding as requested by the Town and suggested they would not agree to an increase until they received more complete records in the future. The Board preferred the Town to continue maintaining ownership and operation of Champion Pool but asked the Manager to determine the cost of transferring Champion Pool back into the County's parks and recreation system.

Jason R. Chappell, Chairman
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board