

Unsealed by Board of Commissioners 01/13/2020.

MINUTES
TRANSYLVANIA COUNTY BOARD OF COMMISSIONERS
March 26, 2018 – CLOSED SESSION

Closed Session #2

Pursuant to NCGS 143-318.11 (a) (3) to consult with an attorney to protect the attorney-client privilege, the second closed session was entered into. Present were Chairman Chapman, Commissioners Chappell, Hawkins and Phillips, County Manager Jaime Laughter, County Attorney Misti Bass and Clerk to the Board Trisha Hogan.

Public Records Request

County Attorney Misti Bass reported that the County received a public records request from Will Cathey that included the records of legal fees spent in the defense of the Crocker lawsuit and any communication with the attorneys regarding same. Due to the extensive nature of the request and because the lawsuit was ongoing at the time of the request, staff has yet to provide records to Mr. Cathey.

Mr. Cathey filed a complaint with the court indicating the County did not comply with the public records request in that the County did not supply records of fees paid for litigation assistance, consultations, emails, or electronic communication of all types and forms, not just matters involving Ms. Crocker, but any amount to any law firms. However, the public records request is clear in that he asked only for legal fees spent on the Crocker lawsuit, not other legal fees as he claims in the complaint. Ms. Bass has been working on answering the claims in the complaint.

Ms. Bass stated she has had conversations with Mr. Cathey regarding the public records request and he has verbally modified his request to include only the legal bills related to the Crocker lawsuit and is no longer interested in the attorney communication.

Ms. Bass sought guidance from the Board on releasing the legal bills related to the Crocker lawsuit. Although the case has been adjudicated, she pointed out a legal argument can be made for not releasing the bills. However, it is questionable whether withholding the legal bills at this point would serve the public interest. Attorney Jackson Price would need to approve the release of any other communications due to the protection of attorney-client privilege should Mr. Cathey reassert his records request for communication.

Because the Crocker lawsuit has been adjudicated and in the interest of transparency, Commissioners agreed to release the records related to the legal fees spent on the Crocker lawsuit. Ms. Bass will continue working with staff to gather those records and comply with the records request and respond by the deadline of April 18.

Opioid Crisis

County Attorney Misti Bass reported she received communication from Baron & Budd law group. This is one of the firms representing counties across the State in the opioid litigation. They contacted Ms. Bass to gauge the County's interest in joining the lawsuit.

Ms. Bass is concerned that law firms are filing individual lawsuits for counties, not a class action lawsuit. This means that each county would have to show the impact of the opioid crisis and the actual damages thereof. There is no cost to counties to join the lawsuit, but Ms. Bass was unsure of the methodology used for determining the cost of damages.

Ms. Bass sought direction from the Board. At this time, Commissioners were not interested in filing a lawsuit. They asked staff to keep them apprised of the situation and of any action or recommendations from the NC Association of County Commissioners.

Chairman Chapman moved to leave closed session, seconded by Commissioner Phillips and unanimously carried.

Larry L. Chapman, Chairman
Transylvania County Board of Commissioners

ATTEST:

Trisha M. Hogan, Clerk to the Board