
W: recycling comments request

message

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Thu, Feb 13, 2020 at 10:12 AM

From: countyjudgegriffin@swbell.net <countyjudgegriffin@swbell.net>**Sent:** Wednesday, February 12, 2020 12:56 PM**Subject:** recycling comments request

A contract is a binding agreement with the expectation of obligation and satisfaction. The obligation on recycling has been, and is being met by the county. There is an expectation of satisfaction of the contract, by payment from the city, that is not being met. I believe the current City Clerk signed this contract. I took this contract to the Mayor around seven years ago. I also presented the law on solid waste and recycling to the Batesville City Council in a regular council meeting around a couple of years ago, a document I will forward, and no one could deny their responsibility.

Since the City of Batesville administration has not honored the contract, and has shown no intentions of honoring the contract, our only course of action is to terminate the contract pursuant to the terms within. This action means, that in around 14 or 15 months, the County will no longer pickup cardboard or office waste within the City of Batesville. The losses from recycling are being borne by the people, outside of Batesville, that pay into our system. Since Batesville has chosen to not pay, it is wrong for ratepayers outside of Batesville to pick up the bill for them. As the law plainly states, it is the City of Batesville that has the responsibility for solid waste and recycling within the city.

As far as meeting to discuss this, what is there to discuss? A contract is a binding agreement. If they wanted to amend the contract, there should have been a proposal put forth to consider. Nothing has been presented to meet about, just a political "we want to meet to discuss issues", with nothing spelled out of what "issues" are to be discussed. We have made a request for an agenda with their issues spelled out. To my knowledge, not a single response has been forthcoming.

If the Mayor had called and said they needed to set up a payment schedule for their delinquent recycling payment, that is something to meet about on recycling. Similarly, if the citizens of Batesville stopped paying for sewer, water and trash, do you believe the Mayor would want to meet, to discuss the issue with the residents that were not meeting the obligation, or cut off the services, unless the meeting was to discuss payment for past due bills? I think there are people that can answer that question from experience. There is a past due obligation, under the contract, for payment from Batesville to Independence County on recycling that is ongoing.

2 attachments **batesville recycling law.docx**
16K **batesville recycling agreement and my letter in 2013.pdf**
138K

City recycling issue 2013

Dear Mayor,

The Treasurer brought a deficiency to my attention regarding the City of Batesville recycling payment. I told him it was sometimes less in one quarter versus another but always worked out at the end of the year. He called Denise and she told him the City budgeted only \$50,000 for this function for 2013 which reduced the payment from the customary \$56,700.

I decided I needed to educate myself on the issue and we searched for the original contract of July 28, 1997 signed by the Mayor, Judge, County Clerk and Denise Johnson (City Clerk). This agreement is to help the City of Batesville comply with A.C.A. 8-9-203 which requires (shall) establish a source separation and recycling program, adopt procedures for collection and storage of recyclables and make contractual or other arrangements for transportation and sale of recyclables. It helps Independence County comply as well and provides funds for the retirement of bonds to construct the facility through Ordinance number 97-07. In fact, within the agreement with the county the City of Batesville has a legal liability to the bond-holders in Section 302 if the project falls into default. We lack seven years paying the debt to the best of my knowledge.

The agreement holds successors responsible for the agreement and termination can occur by written notice no less than one year before the anniversary date. Liability for debt would remain in the event of termination.

The thing I found that has impact upon the City of Batesville is that the rate of reimbursement has not been maintained during the life of the agreement. For example, in 2012, the payment due to the county would and should have been \$107,326.67 instead of the \$56,700 paid leaving a deficit under the agreement of \$50,626.67 due now for 2012. Naturally, the \$50,000 in your budget for 2013 needs to be \$109,473.20 due to the 2% increase recycling employees received for 2013. I ask your council to appropriate the additional \$59,473.20 to meet your obligation under the agreement. This will not cover your responsibility to compensate the county for past deficiencies.

I want to thank the City of Batesville for bringing this issue to our attention because we annually are running the recycling program at a deficit that your fulfillment of the agreement will help narrow.

The ceasing of residential curbside recycling is based on lack of traditional help from the community service program. I have no control over the release of the community service workers from the jail.

Our only option, other than an increase in fees, was to move our route drivers into the plant to sort and bale materials collected from commercial collections and drop-off materials.

The cities of Oil Trough, Newark, Magness and Sulphur Rock are going to use our trailers to continue curbside pick-up of recycled materials. The cities of Southside, Pleasant Plains and Cushman will have trailers set at locations for the convenience of local residents. I haven't spoken to Moorefield yet but they can have a trailer as well. We have five more being built.

I have offered a trailer to Batesville for continued curbside residential pick-up. The law is clear; a responsibility exists for each city to provide for recycling.

This issue is simply, either the City of Batesville wishes to continue curbside recycling or not. On behalf of many citizens of Batesville, I ask you do pick up where we left off.

I do want to dispel the image that there is conflict between Independence County and the City of Batesville. When we say "We the people of Independence County", it includes each and every citizen regardless of where they live. Independence County has a constitutional duty to provide functions of government such as access to the courts, filing of legal papers, tax assessment, tax collection, distribution, access to vote and constitutional officers among other things. The county is a subdivision of state government. Within these functions, the county serves each and every citizen within the county equally.

Cities are a corporate structure, without constitutional duties. They exist within the state and counties. They are creatures of statutory design and expectations. The county shares some of these statutory expectations for the unincorporated areas. When you say "We the citizens of Batesville", by definition, you exclude all people outside of Batesville. Most times when the county is considering these statutory issues, we are speaking of rural, unincorporated areas and not any city within the county. This separation of duties is required by statute and is not because of some conflict between city and county.

There are sometimes differences of opinion and that is called democracy, not conflict. **Most differences are simply requirements of statute.**

Solid waste is one of these responsibilities we share separately and severable.

8-6-212. County solid waste management systems.

AR - Arkansas Code Annotated A.C.A. § 8-6-212

(a)

(1) Each county of the state is authorized to provide and *shall provide* a solid waste management system adequate to collect and dispose of all solid wastes generated or existing within the boundaries of the county *and outside the corporate limits of any municipality in the county.*

(2) By agreement or contractual arrangement, the county may assume responsibility for solid wastes generated within municipalities whether within its county or other counties.

(3) **A county may enter into agreements with other counties, one (1) or more municipalities, a regional solid waste management district, governmental agencies, private persons, trusts, or with any combination thereof, to provide a solid waste management system for the county or any portion thereof, **but the agreement shall not relieve the parties to the agreement of their responsibilities under this subchapter.****

8-6-211. Municipal solid waste management systems.

(a) All municipalities shall provide a solid waste management system which will adequately provide for the collection and disposal of all solid wastes generated or existing within the incorporated limits of the municipality or in the area to be served and in accordance with the rules, regulations, and orders of the Arkansas Pollution Control and Ecology Commission. The governing body of the municipality may enter into agreements with one (1) or more other municipalities, counties, a regional solid waste management district, private persons or trusts, or with any combination thereof, to provide a solid waste management system, or any part of a system, for the municipality, **but the agreement shall not relieve the parties of their responsibilities under this subchapter.**

8-6-720. Opportunity to recycle -- Recyclable materials collection centers.

(By law, Batesville is a member of the White River Regional Solid Waste Management Board; Mayor Elumbaugh is the Secretary/Treasurer)

(a)

(1) Beginning July 1, 1992, each regional solid waste management board **shall ensure that its residents have an opportunity to recycle.** "Opportunity to recycle" means availability of curbside pickup or collection centers for recyclable materials at sites that are convenient for persons to use.

(2) Beginning July 1, 1993, at least one (1) recyclable materials collection center shall be available in each county of a district.

8-9-203. Recycling by governmental entities.

(a) Each state agency, state college or university, county, city, and public school, in cooperation with the Arkansas Department of Environmental Quality and the Compliance Advisory Panel **shall:**

(1) Establish a source separation and recycling program for recyclables generated as a result of agency operations;

(2) Adopt procedures for collection and storage of recyclables; and

(3) Make contractual or other arrangements for transportation and sale of recyclables.