

BRYAN TERRY, M.D.
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RUTHERFORD COUNTY

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House of Representatives State of Tennessee

NASHVILLE

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March 1, 2022

Dear Mayors,

During my research on potential legislation related to the landfill, it has come to my attention that the public service contracts that Rutherford County and Murfreesboro City have with Middle Point Landfill may, in fact, be invalid. The contracts may have expired in 2020. As such, I would ask that your legal teams determine the legality of my findings. And, if valid, I would ask that you take appropriate action to bring Middle Point back to the negotiating table to halt the proposed expansion and place restrictions on the solid waste that is deposited in the landfill.

There are three issues at hand that, I believe, may invalidate the contracts. These include a section of code that limits public service contracts from a county or municipality to 25 years, and the other two are the two contracts themselves.

First, in TCA 6-2-201(13), it clearly states that a municipality may:

“(13) Make contracts with any person, firm, association or corporation for public utilities and public services to be furnished the municipality and those in the municipality. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer.”

According to our legal services, this section of code precedes the contracts that both Rutherford County (April 1995) and Murfreesboro (June 1995) have with Middle Point.

If the City of Murfreesboro Charter is of this type of charter, then this would apply to the contract that the City has with Middle Point. If the City of Murfreesboro is of the Modified City Manager-Council Charter, then those powers are enumerated in 6-33-101 which then references 6-2-201 for enumerated powers, including 6-2-201(13). Thus, the

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contract signed in 1995 to provide public service for waste likely would have expired in 2020.

For Rutherford County, the issue isn't as linear as the Middle Point/Jefferson Pike Landfill (JPL) contract was signed prior to the section of code limiting county public service contracts to 25 years being enacted. However, the County/JPL contract explicitly states that JPL agrees to follow all applicable state laws enacted after the contract was signed.

TCA 5-1-118 provides for the enumerated powers of county government. In that section of code, it clearly restricts a county from entering into a public service contract of greater than 25 years by referencing TCA 6-2-201(13).

This section of code was signed by Governor Sundquist on May 24, 1995. The County contract with JPL was signed April 25, 1995. However, in section 4 of the contract, it clearly states that; "JPL agrees that, in the operation of Middle Point, it will comply with all applicable federal, State, and local laws now in effect and hereinafter be adopted and become effective during the term of this agreement."

I would submit that TCA 5-1-118 is an applicable law that has come into effect during the term of the agreement. If that is the case, then the Rutherford County Host agreement, which is a public service agreement, likely became invalid April 26, 2020.

Please, have your attorneys review the information that I have provided. I look forward to hearing back on this matter.

Regards,



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