

# City of Crossville

392 N. Main  
Crossville, TN 38555



## Minutes

Tuesday, January 14, 2014

6:00 PM

Council Chambers

## City Council

*Mayor J.H. Graham, III*  
*Mayor Pro-tem Danny Wyatt*  
*Council Member Jesse Kerley*  
*Council Member George Marlow*  
*Council Member Pete Souza*

*City Manager David Rutherford*  
*City Clerk Sally Oglesby*

*A public hearing was held on Tuesday, January 14, 2013, to receive comments from the public regarding two annexation progress reports. Mayor J. H. Graham, III was present and presiding. He called the public hearing to order at 5:45 p.m.*

### **PUBLIC HEARING**

*Mayor J. H. Graham, III was present and presiding. He called the public hearing to order 5:45 p.m.*

Plan of Services Progress Report - Myrtle Ave. (6.85 acres)

Plan of Services Progress Report - Meadowview Lane (1.11 acres)

*A public hearing was held to report on the Plan of Services for the annexation of 6.85 acres on Myrtle Avenue and 1.11 acres on Meadowview Lane that were effective 7/11/13. All services of the City have been provided as requested. Mayor Graham opened the floor for comments regarding the progress reports.*

*With no comments, the public hearing was adjourned at 5:51 p.m.*

### **REGULAR MEETING**

*The City Council for the City of Crossville met in regular session on Tuesday, January 14, 2014, at Crossville City Hall.*

### **Roll Call**

**Present:** 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

*Others present were City Manager David Rutherford, City Attorney Kenneth Chadwell, City Clerk Sally Oglesby, Danny Harris, David Beaty, Joyce Gilmore, Jerry Elmore, Willard Dale, Elizabeth Chastain, Richard DeMars, Fran Suiles, Dave Suiles, David Simcox, Roger Potter, Vickie Burgess, Hayden Shadden, Skip Freitag, Lori Neal Freitag, John Turner, Tom Isham, Thomas Eckert, Sharron Eckert, George Nixon, Ashley P. Richards, Jerry Garrison, Harold Allred, Vicky Scarlett, Darwin Scarlett, Kenneth Ferguson, Andy Vaughn, Jerry Kerley, Horace Wyatt, Anne Wyatt, Joe Miller, Helen Camp, Robert Camp, Jim Young, Fred Houston, Audrey Fairman, Leigh Ann Fairman, Wyatt Fairman, Nancy W Smith, Brad Allamong, Chris South, Mike Turner, P. J. Smith, Pauline Sherrer, Randall Kidwell, Charlotte Reynolds, Joe Reynolds, Clark Annis, Skyler Hawn, Rob Harrison, Tina Burgess, Laney Colvard, Travis Smith, Becky Smith, Tina Jones, Archie Higgens, Margie Buxbaum, Lou Morrison, Ray Harris, Peggy Harris, Mark Fox, Freddy Conley, Lisa Conley, Parker Conley, Barry Field, John Kinnunen, Bob Schwartz, Bill Schmich, Khrista Wyatt, Tony Perry, Jim Morrow, and Jeff Brown.*

**Call to Order**

*Mayor J. H. Graham, III was present and presiding. He called the meeting to order at 6:00 p.m. The invocation was given by Willard Dale of the Southwest Baptist Church. The Young Marines presented the colors and led the Pledge of Allegiance.*

**1. Proclamations/Presentations**

a) Student of the Month

**Audrey Fairchild was announced as the Student of the Month for the character trait "honesty".**

**2. Appointments**

Lake Commission

*The term of Clarence Coffey on the Lake Commission expires this month. It was recommended that he be re-appointed for an additional 7 year term.*

**A motion was made by Council Member Jesse Kerley, seconded by Council Member Pete Souza, that Clarence Coffey be re-appointed to the Lake Commission. The motion carried by the following vote:**

**Aye:** 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

**3. Consent Agenda**

**A motion was made by Mayor J.H. Graham III, seconded by Council Member Jesse Kerley, that items "a-l", except "b", be approved on the Consent Agenda. The motion carried by the following vote:**

**Aye:** 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

a. Approval of minutes (12/10/13; 1/2/14)

**The Minutes were approved as recommended.**

**Ordinances on Third Reading**

c. Ordinance amending the FY13-14 budget for tree clearing grant

**This Ordinance was adopted on third reading**

d. Ordinance amending the FY13-14 budget for Airsoft Training equipment

**This Ordinance was adopted on third reading**

- e. Ordinance amending the FY13-14 budget for Baisley settlement

**This Ordinance was adopted on third reading**

**Ordinances on First Reading**

- f. Amendment to Personnel Board

*The Personnel Board ordinance was recommended to be changed by no longer allowing the appointment of members of the immediate family of any employee or elected official. The recommended change was no reflection on any current or past members of the Personnel Board and would grandfather any members currently serving that might have the conflict.*

**This Ordinance was approved on first reading**

- g. 2013 S-2 Municipal Code Supplement

**This Ordinance was approved on first reading**

- h. Ordinance amending the FY2013-14 budget for Ladder #1 repairs

*A budget amendment was required to cover the cost of pump repairs on Ladder #1.*

**This Ordinance was approved on first reading**

- i. Ordinance amending the FY13-14 budget for recreation master plan

**This Ordinance was approved on first reading**

**Additional Consent Items**

- j. Approval of repairs to Ladder #1 in the amount of \$6,461.87

*The pump for Ladder #1 is being repaired at a cost of \$6,461.87.*

**The pump repairs were approved as recommended.**

- k. Approval of contract with Lose & Associates for a Master Recreation Plan

*As discussed at the work session, the City Manager recommended a contract with Lose & Associates to provide a master recreational plan for the city, which will include all recreation facilities owned by the City and the Cumberland County Community Complex. The master plan will also include operational studies of current and future facilities. The cost is \$55,000 and any reimbursable expense such as printing and travel. This proposal is review and planning, there is no design work included in the scope.*

**A Contract with Lose & Associates was approved as recommended.**

I. Approval of Addendum #2 with Field Engineering on Myrtle Ave./Fourth Street sidewalk project

*City Staff received the drawings for ROW acquisition and contacted Field's Engineering for the easement drawings. Mr. Field was not aware that he needed to produce the easement drawings and requested an additional \$1,116 to do so.*

**Addendum #2 with Field Engineering was approved as recommended.**

b. Ordinance amending the 13-14 budget for Northwest Connector Sections II and III

*Councilman Souza discussed the Northwest Connector project and the costs of the project. Further, he discussed previous projects that the Council has approved in the past that have cost a lot of money. He then took the podium and discussed potential ethical issues for Mayor Graham, Mayor Pro-Tem Wyatt, and Councilman Marlow and suggested that they should recuse themselves from voting on the item. He raised a concern on the price of the property purchased by BoJangles and how that could potentially raise the cost of each of the properties to be purchased. Councilman Souza proceeded to distribute documents regarding the Mayor's post office box that is used by a variety of his clients. Mayor Graham responded that his mailing address is used by some of his clients for the Secretary of State's office to send the annual reports that have to be filed. This is a convenience to them so that he can file their annual reports. Further, he stated that he owns no interest in the properties. Councilman Souza stated that he felt the Mayor had a business interest. At the request of Mayor Graham, City Attorney Kenneth Chadwell responded that the Mayor does not have a conflict of interest under the charter because a registered agent or tax preparer has no economic interest. He further stated that nothing was presented that indicated that Mayor Pro-Tem Wyatt had an economic interest that would cause him not to vote on the motion. Mayor Pro-Tem Wyatt stated that he would not support moving forward on the Northwest Connector until the financing of the downtown project is complete.*

**A motion was made by Mayor J.H. Graham III, seconded by Council Member George Marlow, that the ordinance amending the budget for the Northwest Connector be approved on third reading. The motion failed by the following vote:**

**Aye:** 2 - Mayor J.H. Graham III and Council Member George Marlow

**Nay:** 3 - Mayor Pro-tem Danny Wyatt, Council Member Pete Souza and Council Member Jesse Kerley

4. Bids/Purchases - NONE

5. Marketing Report

January Marketing Report

*Marketing Director Billy Loggins provided an update on the following:*

- Christmas Parade
- 2014 Events
- Dog Park
- Economic Development
- 2014 Airport Open House/Fly-In - 80th Anniversary
- Annual Report

**6. Other Business****a. Matters relative to special city census**

*As discussed at the work session, the City Manager and City Clerk have met with David Warner about conducting a special city census. Mr. Warner has reviewed the information provided and estimates that the population is between 11,248 and 11,667, which would generate 453-872 additional citizens. At the current rate for state-shared taxes, this would provide additional revenues of \$50,000-95,000 per year for the City. Since the 2020 census would not be certified until July 2021, this amount would be collected for 7 years or \$350,000 to \$665,000 over the ensuing years. Mr. Warner has agreed to do the census for \$39,750 under the same arrangements as he did in 2006.*

**A motion was made by Mayor J.H. Graham III, seconded by Council Member Jesse Kerley, that an agreement with David Warner to conduct a special census be approved and a budget amendment be passed on first reading. The motion carried by the following vote:**

**Aye:** 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

**b. Matters relative to Airport Operating Agreement**

*Chris Bennett from Crossville Aero submitted notice of his desire to continue the airport operating agreement for an additional term. The operating agreement is for two years with a renewal option for five additional terms of two year each. It was originally signed in 2010 and was renewed on April 10, 2012. Councilman Marlow complimented Freitag Construction on the runway lights project. Mayor Graham complimented Mr. Bennett for the job he is doing.*

**A motion was made by Mayor J.H. Graham III, seconded by Mayor Pro-tem Danny Wyatt, that the two-year renewal of the contract with Crossville Aero be approved as recommended. The motion carried by the following vote:**

**Aye:** 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

**c. Matters relative to City Manager Performance Evaluation**

*Councilmembers were provided a document to evaluate the City Manager on his performance and to establish goals for the next period. He received an overall composite score of 4.46 out of a possible 5.0. (A summary of the results is attached and made a part of these minutes). The actual evaluations are on file in the Human Resource office. All members concurred that Mr. Rutherford has done an excellent job.*

**A motion was made by Mayor J. H. Graham, III, seconded by Councilman Pete Souza, that City Manager Rutherford's salary be raised to \$95,000 and a budget amendment be passed on first reading.**

**Aye:** 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

d. Matters relative to reclaiming legal expense to-date on the soccer fields

*Mayor Pro-Tem Danny Wyatt led a discussion on the legal expenses that the City has incurred on the issue with the soccer complex. As of 12/30/13, the City has spent \$19,312.94 to defend the possible wetland issue. City Attorney Chadwell advised that a demand should be made to the sellers of the property for restitution as covered under the sale agreement. Further, he advised that the request come from Mr. Stagg to the attorney for the construction company.*

**A motion was made by Mayor Pro-tem Danny Wyatt, seconded by Council Member Pete Souza, that the City Manager be instructed to ask the sellers to pay the legal expenses under the indemnification agreement. The motion carried by the following vote:**

**Aye:** 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

e. Matters relative to lost revenues of business downtown

*Mayor Pro-Tem Wyatt led a discussion on concerns of downtown businesses that might be disrupted by the improvement project. He asked the City Manager and Mayor to set up a meeting with the business owners concerning the potential of lost revenues. He also asked the City Manager to find out when DCI will be putting up their money for the project. Mayor Graham asked for an update on the plans of the Task Force. The City Manager reported that the Chamber is conducting a study on the businesses that receive deliveries and working on leases for additional parking areas. There will be weekly meetings throughout the project to keep everyone up-to-date and identify issues. Further, he reported that the contract specifies that the contractor must keep one lane open at all times. The question was asked about what liability the City might have to businesses for loss of revenue. Mr. Rutherford replied that he did not believe the city would have any liability. It was pointed out that DCI and the business owners have been working together on this project from the beginning. City Attorney Chadwell appreciated the concerns about the businesses, but that there would be no liability for the city. He encouraged the continued partnership with the owners throughout the project.*

**These concerns were discussed.**

f. Matters relative to Council Health Insurance

*As he discussed at the work session, Councilman Souza expressed his desire to eliminate funding of City Councilmember's health insurance and use those funds for employees that need assistance.*

*At the present time the total cost to the city for health insurance coverage for council members is \$31,042.00 per year (2013). The total cost to the city in 2014 will be \$34,683.00.*

*Mayor Graham stated that he preferred a sick pay bank similar to the State of Tennessee and also asked for more specifics on how the money would be used.*

**A motion was made by Council Member Pete Souza, seconded by Council Member Jesse Kerley, that effective February 1, 2014, the City of Crossville no longer fund City Council members' health insurance and that the funds equal to the amount of the cost of health insurance be placed in an Employee Welfare Fund to be administered by a committee organized by the Human**

---

**Resources Administrator and overseen by the City Manager. The motion failed by the following vote:**

**Aye:** 2 - Council Member Pete Souza and Council Member Jesse Kerley

**Nay:** 3 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt and Council Member George Marlow

**g.** Matters relative to the confidence of the City Council by the Crossville citizens

*Councilman Souza explained that there has been a lot of controversy over the way he has conducted himself. He has had a lot of criticism and a lot of support. He asked for a confidence vote from the citizens of Crossville at the next primary election. Further, he would resign if he doesn't get at least 50% vote. City Attorney Chadwell informed the Council that any motion would be out of order since sufficient notice was not given to the public or Council for action at this meeting. He explained the Sunshine Law provides that the press and public have to have sufficient information prior to the meeting about possible action. Councilman Souza responded that, at the December meeting, the request for his records was made without advance notice. Mr. Chadwell stated that the proposed motion would override the Charter in how councilmembers are put in office and was out of order. Mayor Graham asked if the motion was allowed by City Charter and if it could be placed on the upcoming primary election. Mr. Chadwell responded that it was not a lawful motion. Mayor Graham suggested that the motion be reviewed and brought up at the next meeting. The City Manager and City Clerk were directed to get with the Election Commission on the cost and the possibility of a referendum in advance of the next meeting. Councilman Marlow commented that the citizens voted for a 4 year term and he is committed to serving for 4 years. The voters will determine the members of Council at the next election. Councilman Kerley concurred with Councilman Marlow. He asked for further clarification from the City Attorney about motions that are brought up during a meeting.*

**A motion was made by Councilman Souza that on the upcoming primary election, the following be placed on the ballot to the City of Crossville voters:**

**1. That a vote of confidence is given Mayor J H. Graham; 2. That a vote of confidence is given Mayor Pro Tem Danny Wyatt; 3. That a vote of confidence is given Councilman George Marlow; 4. That a vote of confidence is given Councilman Pete Souza; 5. That a vote of confidence is given Councilman Jesse Kerley. The motion failed for lack of a second.**

**h.** Matters relative to Councilman's Souza's personal records and disclosure

*Councilman Souza asked the City Attorney about his status since he has passed the deadline without producing the records. Mr. Chadwell responded that nothing was happening because the District Attorney General was doing his job with the records that had been submitted to him. Councilman Souza asked Lou Morrison to head an oversight committee that he would form to look over his records and then brief the public on what is found. Mr. Morrison agreed to the request.*

**This Resolution was received and filed**

**7. City Attorney's Report**

City Attorney's Report



*City Attorney Kenneth Chadwell reported that no new lawsuits had been filed during the previous month.*

## 8. City Manager's Report

### City Manager's Report

*City Manager David Rutherford gave the monthly revenue reports for local option sales tax, wholesale beer tax, and retail liquor franchise fees. He also gave updated reports on building permits, bonded indebtedness, grants, and special projects.*

*In personnel issues, the following were recommended:*

*Police Department-Gene Hall has retired and is eligible for retirement bonus of \$2,500. He worked 18 years as a police officer/detective.*

*Police Department-Donald Hammons has completed 6 month probationary period as detective. An increase to pay grade 28, the minimum for detective, was recommended. This would be an annual increase of \$3,016.*

*Catoosa Department-Jeffrey Johnson and Clayton Tanner have successfully completed and passed the Distribution II Certification Test. A 5% pay increase retroactive to November 11, 2013 was recommended.*

*No budget amendments are necessary for any of the raises.*

**A motion was made by Mayor J.H. Graham III, seconded by Council Member George Marlow, that the personnel recommendations for Gene Hall, Donald Hammons, Jeffrey Johnson, and Clayton Tanner be approved as recommended. The motion carried by the following vote:**

**Aye:** 5 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow, Council Member Pete Souza and Council Member Jesse Kerley

## 9. Public Comment

*Mayor Graham opened the floor for public comments.*

*Randall Kidwell spoke on the soccer complex and his work on the evaluation on the wetlands' issues. He stated that he had looked at it for the contractor and that a soil scientist did a full determination and found no issues. The issue came from TDEC who have since backed off, but got the Corps of Engineers involved. Further, he stated that the Corps of Engineers is relying on junk information and that they were not correct in their decision.*

## ADJOURNMENT

**A motion was made by Mayor Pro-Tem Danny Wyatt, seconded by Councilman Jesse Kerley, that the meeting be adjourned.**

*With no further business, the meeting was adjourned at 7:27 p.m.*