

# City of Crossville

392 N. Main  
Crossville, TN 38555



## Minutes

Tuesday, September 9, 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*

*The City Council for the City of Crossville met in regular session on Tuesday, September 9, 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, Tim Begley, Fred Houston, Andy Vaughn, Mark Rosser, David Beaty, David Simcox, Clark Annis, Greg Barnwell, Ted Meadows, Ashley Pealer-Richards, Brad Allamong, Linda Tabor, Julia Dean, Earl Dean, Pam Harris, Clyde Webb, Don Tabor, Jerry Garrison, David Hassler, Kyle Davis, Jack Davis, Archie Higgins, Margie Buxbaum, Darlene Barnwell, Jerry Kerley, Tom Isham, James Perry, John Turner, Chris Bennett, Joe Miller, Sandy Gruber, Kyle Turner, Jim Young, Jim Morrow, Mark Fox, Dr. Ellis, Dr. Gray, Dr. Crawford, Billy Loggins, Bruce Wyatt, Ray Hansen, Khrista Wyatt, Randy Boston, Teresa Boston, Bob Shurmur, Tanya Shurmur, Franc Connor, Lynn Sewell, Sandra McRaie, Carol Williamson, Donnie Williamson, Cathe Rayme, Margie Buxbaum, Samantha Crisp, and Helen Camp.*

## 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 Clyde Webb of the Cumberland Worship Center. The Young Marines presented the colors and led the Pledge of Allegiance.*

## 1. Proclamations/Presentations

- a. Student of the Month
  - b. Recognition of former Mayor Earl Dean
  - c. National Chiropractic Health Month
  - d. Constitution Week
  - e. Senior Men's Softball
  - f. Truck Driving School program
- a. *Student of the Month – Corbin Seiber for “Cooperation”*
  - b. *Recognition of former Mayor Earl Dean - As discussed in work session, former Mayor Earl Dean was recognized by having the accessible playground at Centennial Park named “The Mayor Earl Dean Accessible Playground”.*
  - c. *National Chiropractic Health Month – October*
  - d. *Constitution Week – September 17-24*
  - e. *Senior Men's Softball – Ted Meadows presented plaques in recognition of the City's support.*
  - f. *Report from TCAT on truck driving school program - Deferred.*
  - g. *National Public Lands Day – September 27*

**The presentations were made.**

**2. Appointments**

Lake Commission

**This Appointment was deferred**

**3. Consent Agenda**

**Approval of the Consent Agenda**

**A motion was made by Council Member Pete Souza , seconded by Council Member George Marlow, to approve the Consent Agenda as presented. 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 (8/12, 8/20)

**The Minutes were approved as recommended.**

**Ordinances on Third Reading**

- b. Ordinance amending the FY14-15 budget for Veterans' Service Office

**This Ordinance was adopted on third reading.**

- c. Ordinance amending Title 8 of the Crossville Municipal Code regarding alcoholic beverages

**This Ordinance was adopted on third reading.**

**Ordinances on Second Reading**

- d. Ordinance amending the FY14-15 budget for the Little Obed Sewer Pump Station Upgrade

**This Ordinance was approved on second reading.**

**Additional Consent Items**

- e. Resolution authorizing a loan in the principal amount not to exceed \$6,385,500 for refunding Rural Development bonds

**This Resolution was approved as recommended.**

- f. Approval of temporary street closings for CCHS Homecoming Parade

The temporary road closings were approved as recommended.

- g. Approval of application for funding of corporate hangar

This application was approved as recommended.

- h. Approval of Catoosa Utility Dept. Office Rental Agreement

This Contract was approved as recommended.

- i. Approval of amendment of Contract in Lieu of Performance Bond on the Crossville Sanitary Landfill reducing the bond from \$695,014 to \$646,653

This Contract was approved as recommended.

- j. Approval of Traffic Signal Maintenance Agreement

This Agreement was approved as recommended.

#### 4. Bids/Purchases

*(Bid tabulations attached and made a part of these minutes.)*

- a. Purchase of traffic signal monitor test equipment

*The Street Department obtained two (2) quotes to replace the traffic signal monitor test equipment. There are only two (2) companies that supply the equipment that the City of Crossville requires. It was recommended that the low bid of \$10,070 from Temple, Inc. be accepted,*

**A motion was made by Mayor Pro-tem Danny Wyatt, seconded by Council Member Pete Souza, that bid 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

- b. Patrol Vehicles (3)

*Council approval was requested for the purchase of (3) marked patrol units from Ford of Murfreesboro (state contract) to replace units with high mileage and excessive wear. The total amount of purchase will be \$82,740 (\$27,580 each). A grant has been awarded in the amount of \$11,211 to offset the cost.*

**A motion was made by Council Member Pete Souza, seconded by Council Member George Marlow, that the purchases 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. Water Tank Repainting**

*Bids were received on the repainting of a water tank in the Catoosa Utility Department. The low bid of Preferred Sandblasting & Painting in the amount of \$128,500 was recommended for approval.*

**A motion was made by Mayor J.H. Graham III, seconded by Mayor Pro-tem Danny Wyatt, that the bid 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

*(At 6:25 p.m. the regular meeting was recessed and the Solicitation Board convened.)*

**SOLICITATION BOARD****Approval of the Consent Agenda**

**A motion was made by Mayor Pro-tem Danny Wyatt , seconded by Council Member George Marlow, to approve both Solicitation Permits. 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. United Fund of Cumberland County, Inc.**

*An application was filed by the United Fund of Cumberland County, Inc. for their annual fundraising campaign.*

**This Permit was approved as recommended.**

**b. Christian Counseling Center of Cumberland County**

*The Christian Counseling Center of Cumberland County applied for a Solicitation Permit to raise funds to help cover the cost for counseling services. The permit will cover the period 10/1/14 - 9/30/15.*

**This Permit was approved as recommended.**

*(At 6:30 p.m. the Solicitation Board was adjourned and the Beer Board convened.)*

**BEER BOARD****a. Sammy Jo's Pizza and More**

*William R. Thrall II submitted an application for an on-premises beer permit for Sammy Jo's Pizza and More to be located at 228 Interstate Dr., Suite 127. A clear records report was provided by Chief Beaty and the permit recommended for approval.*

**A motion was made by Mayor Pro-tem Danny Wyatt, seconded by Council Member George Marlow, that this Permit 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

**b. Honey's Market**

*Francisco Antonio Fuentes applied for an off-premises beer permit for Honey's Market located at 822 Sparta Hwy. Because there was an existing beer permit at this location before the church moved into the area, continual beer permits are allowed. A clear records report was provided by Chief Beaty and the permit recommended for approval.*

**A motion was made by Council Member Jesse Kerley, seconded by Council Member Pete Souza, that this Permit 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

*At 6:35 p.m. the Beer Board was adjourned and the regular meeting re-convened.)*

**5. Marketing Report**

**September Marketing Report**

*Marketing Director Billy Loggins will give a report on the following:*

- TVA
- Meadow Park Lake Trail
- Tennessee Parks and Greenways Foundation
- Christmas Parade
- Pioneer Day
- Cumberland Homesteads Apple Festival
- Airport Open House / Fly In
- Senior Olympics
- Depot
- Upper Cumberland Development District meeting (Economic Development)
- Downtown Cruise In's
- Alzheimer's Walk
- Shred Day – September 25

**This Report was received and filed**

**6. Other Business**

**a.** Discussion and action on building permits in Cumberland County

*At the May 2014 meeting, Council approved sending a termination notice to Cumberland County that the City would be adopting new building codes and that the current contract would be terminated as of August 31. The City Manager has discussed the matter with the County Mayor and the appropriate committee of the County Commission to determine if they wished to continue using the City for their building permit process under a new contract. An e-mail has been received from Mayor Carey requesting approval of a contract extension of six additional months for action by the County. As noticed to the County in May, the new fee schedule became effective for both the City and the County on September 1.*

**A motion was made by Mayor J.H. Graham III, seconded by Council Member Pete Souza, that the extension of the contract with Cumberland County under the new fee schedule for up to six months be approved. 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.** Resolution setting a public hearing for the Wistheria/Narcissus/Iris abutment project

*A resolution outlining the project costs, scope of project, and setting the public hearing for the October meeting needs was presented for adoption. Following adoption, it will be published in the newspaper and mailed to all affected property owners. If Council proceeds with the project, this resolution can be revised, if Council so wishes.*

*Councilman Souza stated that he felt the property owners deserve a break since they have lived there so long. Councilman Marlow commented that it was his opinion that it should be similar to the percentage paid by other property owners in abutment projects. Mayor Graham suggested leaving the percentage the same but lengthen the term for payback. Mayor Pro-Tem Wyatt recommended charging them 75% over 10 years. Councilman Kerley stated that he thought it was sad that the City couldn't take care of current city property owners, but that new roads could be constructed across farmlands and that he felt the the charge should be 25%.*

**A motion was made by Council Member Pete Souza, seconded by Council Member Jesse Kerley, that the property owners' percentage be set at 25% over 10 years and the resolution adopted. 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

**A motion was made by Council Member George Marlow, seconded by Mayor J.H. Graham III, that the resolution be adopted with the property owners' percentage set at 75% over 10 years, if the majority of the property owners approve. The motion carried by the following vote:**

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

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

c. Discussion and action on request for sidewalks on Dunn Ave.

*Property owners on Dunn Ave., which runs from Interstate Drive to Matherly Street, have requested that the City install sidewalks, curb and guttering on the north side of Dunn Ave. They propose to contribute 50% of the raw material costs and dedicate the right-of-way. There are three parcels with only one of them currently developed and occupied by Dr. Johnny Shanks. One of the remaining parcels will be the site of the new liquor store to be built by Bruce and Carmen Wyatt, which is not projected to be open until Summer 2015. No plans have been announced for the middle parcel. The estimate cost for the materials is approximately \$36 to \$40 per linear foot.*

*The City Manager recommended that the property owners pay for all the materials and the City provide the labor and the project be ranked with the other sidewalks and projects that are currently on the priority list. He recommended that construction not be done until all construction is complete on the block so that it would not be damaged and the driveway entrances are known. In looking at the plat for the property, the work can be done in existing right-of-way and not require dedication by the property owners.*

**A motion was made by Council Member George Marlow, seconded by Council Member Pete Souza, that the City Manager's recommendation be accepted and the project be ranked with other sidewalk projects. 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

d. Discussion and action on Retirement Incentive Plan

*City Manager David Rutherford recommended approval of a retirement incentive plan for eligible employees (attached and made a part of these minutes). The proposed plan has been discussed with eligible employees with several indicating interest.*

**A motion was made by Mayor J.H. Graham III, seconded by Council Member Pete Souza, that the Retirement Incentive Plan 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

e. Discussion and action on Christmas Open House/Swearing-In Ceremonies

*With the change in the Charter, the swearing-in of the Mayor and two Council members is to be held on Monday, December 1. It was suggested that the Christmas Open House and the Swearing-In Ceremonies be combined into one event to save costs since it will now take place after Thanksgiving.*

*In 2012, the Swearing-In Ceremonies were held at our new building with refreshments provided by DCI. The cost was \$221.31 plus postage of approximately \$200 for the invitations.*

*In 2013, Christmas cards with invitations to the Christmas Open House were mailed out. The cost with the refreshments was \$3,958 plus postage of approximately \$200 for the Christmas cards.*

*It was suggested to continue with the Christmas Card contest but buy a limited number of the cards to give to the students, discontinue the mailing of Christmas cards, combine the two events to one event in the late afternoon on Monday,*



*December 1, and scale back the catering costs. The recommended budget for the combined events would be \$2,500.*

**A motion was made by Mayor J.H. Graham III, seconded by Council Member Jesse Kerley, that separate Christmas Open House and Swearing-In ceremonies be held with the cost not to exceed \$1250 each. 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

*Councilman Souza made a motion to not send out Christmas cards. The motion died due to the lack of a second.*

**A motion was made by Mayor J.H. Graham III, seconded by Council Member George Marlow, that the Christmas Card contest be continued. The motion carried by the following vote:**

**Aye:** 4 - Mayor J.H. Graham III, Mayor Pro-tem Danny Wyatt, Council Member George Marlow and Council Member Jesse Kerley

**Nay:** 1 - Council Member Pete Souza

**f.** Discussion and action on Army Corps of Engineer's Scope of Work

*The City Manager met with David Bishop regarding the Regional Water Supply study. The scope document has been modified significantly and requires a revision approved by Council. The final delivery of the report is set for December 2016 with the dam at Meadow Park Lake possibly being raised a maximum of 18.5'.*

**A motion was made by Mayor J.H. Graham III, seconded by Mayor Pro-tem Danny Wyatt, that the amended scope of work with the U.S. Army Corps of Engineers be approved. 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

**g.** Discussion and action on hiring independent counsel in regards to workplace harassment complaint

*(At 7:01 p.m. Mayor Graham stepped down as Mayor, handed the gavel over to the Mayor Pro-Tem, and exited the room)*

*Councilman Souza asked to set a policy for a review of all complaints for the protection of employees from harassment by elected officials. He believes the City Council has to hear the complaint and would like an independent investigation of the recent workplace harassment complaint of Jerry Kerley. Councilman Marlow suggested turning the matter over to the City Manager and City Attorney for a recommendation. City Attorney Chadwell responded that it would be premature at this time for an investigation because he is not aware of a workplace harassment complaint being filed and he did not recommend passage of the motion. Mayor Pro-Tem Wyatt stated that he would like a recommendation as well, but not on this particular instance as it was not proper. Councilman Kerley responded that the City wouldn't be in this position if Council hadn't failed to act two years ago. City Manager Rutherford stated that the City's grievance procedures do not address problems*

*between employees and elected officials or the City Manager. He suggested allowing the City Attorney and City Manager to draft something to fill in the holes to deal with future events because the Council cannot deal with past events. He also pointed out that there is ongoing legislation on the state level on bullying and a policy should be drafted by March 1 that would apply to elected officials.*

**A motion was made by Council Member Pete Souza, seconded by Council Member Jesse Kerley, that the City Manager be directed to hire independent counsel to review Mr. Jerry Kerley's harassment complaint for both merit and recommendations. The motion failed by the following vote:**

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

**Nay:** 2 - Mayor Pro-tem Danny Wyatt and Council Member George Marlow

*Mayor Pro-Tem Wyatt asked the Council if they wanted the City Manager and City Attorney to look at changes in the policies. Councilman Souza responded in the negative. No other response was received.  
(At 7:09 p.m., Mayor Graham returned and reassumed his position.)*

**h.** Discussion and possible action on Veolia's current contract

*Councilman Kerley suggested a possible six month extension of Veolia's current contract. He pointed out that the Council took action 5 years ago that required the City to take proposals at the end of the five year term and that had not been rescinded. City Manager Rutherford responded that in July, the Council voted for the City Manager to begin negotiations with Veolia. City Attorney Chadwell stated that the prior motion was rescinded when the Council voted to take RFQ's in April because there were numerous worksessions and meetings discussing the matter which rendered the previous motion void even though the word "rescind" was not used. Mr. Rutherford informed the Council that he has a contract ready to present to the council, but did not want to present it if there might be a change in the procedure. He did not want to disclose the terms of that contract that would then be public record.*

*Councilman Kerley asked the City Attorney for a definition of professional services as outlined in Tennessee Code Annotated. Mr. Chadwell stated that the statute is not meant to be an exact list. He further stated that he could defend the RFQ process that is underway.*

**A motion was made by Mayor J.H. Graham III, seconded by Council Member George Marlow, that negotiations with Veolia move forward in the process already in place. The motion carried by the following vote:**

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

**Nay:** 1 - Council Member Jesse Kerley

**Abstain:** 1 - Council Member Pete Souza

**7. City Attorney's Report**

City Attorney's Report

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

**This Report was received and filed**

## 8. City Manager's Report

### City Manager's Report

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

- *Water line projects - RFQ's have been sent out for engineering on the water line projects.*
- *ISO report - Opening up the back road at the end of Holiday Drive will help the ISO ratings for the properties now outside the 5 mile radius.*
- *Community survey – It has been completed, the results have been tabulated, and a final report will be ready in a few weeks. He reviewed some of the results.*

*A motion was made by Mayor Pro-Tem Wyatt for the City Manager to negotiate what the property would cost to build the road on the back side of Holiday Hills. Councilman Souza raised a point of order on such a vote since there had not been previous notification. Mayor Graham asked the City Manager to make contact with the property owner about the possibility of building the road. Councilman Marlow pointed out that it might be part of the failed subdivision and should be looked at.*

**This Report was received and filed**

## 9. Public Comment

*Mayor Graham opened the floor for comments from the public. Advance requests to speak were:*

*Vickie Myers - not present*

*Archie Higgins - declined to speak*

*Dr. Mark Fox - As the Medical Director for the City Fire Department, he pointed out the amount of work that was put in on the ISO examination and the lowering of the rate. The best practice would be to be within 2 1/2 miles of a fire station or less than 6 minutes. There is no credit for the first responder program in the ISO ratings at this time. They are using the smaller trucks for the first responder program, when possible. He asked for consideration of more personnel. Councilman Souza expressed his support for budget requests next year for more personnel and smaller trucks for the First Responder program. Mayor Graham pointed out the low rating and requested more information from the Fire Chief on improving the E-911 system.*

*David Simcox directed his comments to Councilman Souza, observing that it seemed most of his actions were mostly in a negative mode and are of concern to many taxpayers and their effect on economic growth. He stated that there is a very negative perception of the city. Councilman Souza responded that the investigations have never died.*

## **ADJOURNMENT**

**With no further business, the meeting was adjourned at 7:48 p.m.**