

City of Crossville

392 N. Main
Crossville, TN 38555



Minutes

Thursday, February 11, 2016

6:00 PM

Council Chambers

City Council

Mayor James S. Mayberry
Mayor Pro-Tem Pamala Harris
Council Member Jesse Kerley
Council Member Pedro (Pete) Souza
Council Member Danny Wyatt
City Manager David Rutherford
City Clerk Sally Oglesby

PUBLIC HEARING

The City Council for the City of Crossville held a public hearing on Thursday, February 11, 2015, at Crossville City Hall. The purpose of the hearing was to receive comments from the public regarding a progress report on a recent annexation. Mayor James Mayberry was present and presiding. He called the hearing to order at 5:50 p.m.

Plan of Services Progress Report

On August 13, 2015, the City annexed 3 parcels on Old Lantana Road, consisting of 3.63 acres. All services of the City have been provided as outlined and/or requested by the property owner/developer. Mayor Mayberry asked for any comments from those in attendance. There were none. The Public hearing was adjourned at 5:52 p.m.

This Public Hearing was received and filed

REGULAR MEETING

The City Council for Crossville, Tennessee met in regular session on Thursday, February 11, 2016, at Crossville City Hall.

Roll Call

Present: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

Others present were City Manager David Rutherford, City Attorney Will Ridley, City Clerk Sally Oglesby, Ed Camera, Tom Isham, V.S. Wisdom, Andy Vaughn, David Brockway, Joe Souza, R. J. Peterson, Glen McDonald, Jim Young, Sue York, Fred Houston, Judy Ann Stover, Brad Allamong, Jackie Baker, Alan Baker, Patty Sebby, Ken Sebby, Tammie French, Robert Kimbro, Jr., Ashley DeRossett, Chris Bennett, Thomas Eckert, Sharon Eckert, Tim Begley, Rob Harrison, Bruce Wyatt, Sherley Wyatt, Clark Annis, Jeff Johnson, Dennis Gregg, Jerry Kerley, Mike Turner, Rolf Weeks, Ray Hansen, Ashley Pealer-Richards, Jim Morrow, Khrista Wyatt, Randall Kidwell, Jeannette Parsons, Mike Patel, John Turner, Laney Colvard, and Steve Frank.

Call to Order

Mayor James Mayberry was present and presiding. He called the meeting to order at 6:00 p.m. Clyde Webb of Cumberland Worship Center gave the invocation. Mayor Mayberry led the Pledge of Allegiance.

1. Proclamations/Presentations

- a) Student of the Month
- b) Spay Day

a) *Student of the Month - Cody Allen Roysden was recognized for the character trait of "respect".*

b) *Spay Day - February 23*

The presentations were made.

2. Appointments

a. Lake Commission

A motion was made by Mayor James Mayberry, seconded by Council Member Pete Souza, that Clark West be re-appointed to the Lake Commission. The motion carried by the following vote:

Aye: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

b. Catoosa Utility Department Advisory Board

A motion was made by Council Member Jesse Kerley, seconded by Council Member Pete Souza, that the members on the Catoosa Utility Department Advisory Board continue on a month-to-month basis until further notice. The motion carried by the following vote:

Aye: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

3. Consent Agenda

Approval of the Consent Agenda

A motion was made by Council Member Jesse Kerley, seconded by Mayor Pro-tem Pamala Harris, to approve the Consent Agenda as presented. The motion carried by the following vote:

Aye: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

a. Approval of minutes (1/14, 1/18)

The minutes were approved as recommended.

Ordinances on Third Reading

b. Ordinance amending the FY2015-16 budget for Hwy 127S utility relocations

This Ordinance was adopted on third reading.

c. Ordinance adopting 2015-S4 supplement to the Crossville Code of

Ordinances

This Ordinance was adopted on third reading.

- d. Ordinance amending the FY2015-16 budget for landfill testing

This Ordinance was adopted on third reading.

Ordinances on First Reading

- e. Ordinance amending § 8-308 of the Crossville Municipal Code pertaining to intoxicating liquors advertising

State law has virtually no restrictions for advertising by retail liquor stores, except that they cannot be paid by the distributors or manufacturers. The City's ordinance uses the same language as is used for stores that sell beer, which is identical to state law. The proposed change in the ordinance will allow temporary advertising messages for special events and sales.

This Ordinance was approved on first reading.

- f. Ordinance amending portions of Title 8, Chapter 3 of the Crossville Municipal Code pertaining to intoxicating liquors

With the new law allowing wine in grocery stores, the City Attorney recommended that changes be made to the Code to clarify the requirements. Two definitions were deleted and replaced with new definitions that provide distinction between liquor stores and retail food stores selling wine.

This Ordinance was approved on first reading.

Additional Consent Items

- g. Approval of application for Property Conservation Matching Grant Program

The Tennessee Municipal Risk Management Pool has announced a new grant program to purchase items designed to protect insured property from a covered perils. There is a 50% match. The IT Department is looking at security equipment and cameras for the 2nd Floor at City Hall, Police Department and Palace Theatre. This would be a good opportunity to cover half of those costs.

The application was approved as recommended.

- h. Approval of pre-application for Greenway and Habitat Conservation Easement Project

As a result of the TVA Kingston Coal Ash disaster, TVA was fined by TDEC. These funds have been designated to provide improvements to habitat and restoration in the three watersheds affected by the ash spill - the Emory River system, the Clinch River system, and the streams that flow into the upper part of the Watts Bar Reservoir. More than half of the funds were awarded for project in 2013 with projects completed by 2015. There is \$750,000 remaining in this cycle. There are two project categories: Habitat Restoration and Provision of New/Improved Recreational Opportunities. The application manual encourages projects that provide benefits in

both categories. The application specifically allows funds to be used for land acquisition and easements and for habitat enhancement, which this project involves.

The application process consists of a pre-proposal due February 29th. Selected projects will be notified by March 25th and full proposals will be due on April 15. The projects selected from that group will be notified by summer. Contracts would then be drawn up and executed, so work under the contract might be able to start by August.

There is a minimum 20% match required, with in-kind contributions eligible. No administrative costs are allowed using grant funds. It may be possible to count administrative costs as part of the match.

The work under the grant must be completed within two years.

Proposal Summary (Pre-proposal Application has not been completed at this time)

A. Easement Acquisition

The City of Crossville and OWCA will acquire through donation or purchase approximately fifty foot easements on both sides of the Little Obed River running from approximately the point on the stream below the end of Obed Court to the County's Obed River Park, covering roughly 1.7 miles. The fifty foot easement on the right bank will include the right to develop a paved greenway with lighting and other improvements over time. The easement on the left bank will be a buffer easement only and will not include public access to that land. Both easements will require that the banks and a minimum of ten to twenty foot strip be vegetated with woody species, giving the city and its agents the right to plant native species and remove invasive species within this area. On the buffer only side, the width will not exceed the flood plain and the landowner will have wide latitude to select and plant their choice of native plants. On the greenway side, the city will have primary responsibility for planting and maintenance.

B. Habitat Restoration

Stream corridors are important for wildlife because they provide a continuous connection that is often broken up by normal development patterns. Much of this stream corridor is already forested on at least one side of the stream but for maximum bank stability and habitat completeness, trees and shrubs are needed on both sides of the stream. The segment from Old Jamestown Hwy to 127 is well vegetated on both sides and previous plantings have been done here. New plantings will need to be done along the banks on some of the property in the Hillcrest subdivision and in the Charleston Plantation. Small seedlings and saplings will be used. This work will be done by OWCA, who will coordinate with the landowners in the selection of plants.

Costs:

Easement acquisition:

It is expected that over 50% of the easements required will be donated by the landowners, but \$75,000 will be allocated for purchasing easements. City of Crossville staff time in negotiating with landowners and legal costs in drawing up and executing the easements will be estimated and submitted as the cost share for this project.

Planting:

*\$2,500 B & B 5' Trees
1,000 Seedlings*

OWCA Staff Time meeting:
\$1,500 With landowners
1,000 Planting labor, volunteers will be used as well
250 Equipment rental (tree auger)
250 Minor equipment
\$6,500 Total for planting

The pre-application for the funds was approved as recommended.

- i. Approval of temporary street closing for Run to Read 5K and 1-Mile Walk

The Cumberland County Imagination Library and Cumberland County School's Coordinated School Health Program is sponsoring their annual "Run to Read 5K and 1 mile Walk" on Saturday, March 12. The route will be on Cook Road and start and end at Stone Memorial High School. The request is that the road be closed from 7:30 a.m. to 9:30 a.m.

The temporary street closings were approved as recommended.

- j. Approval of temporary street closings for Rotary Halloween 5K and One Mile Fun Run

The Crossville Rotary Club requests temporary street closings for their annual 5K and One Mile Fun Run to be held on October 29 beginning at 8:00 a.m. They have requested a route beginning and ending at the depot as they have done in the past. Should the City have a certified course by the time of their event, they will be contacted to change to a certified course.

The temporary street closings were approved as recommended.

- k. Approval of Certificate of Compliance for Food City #656

Steven C. Smith dba Food City #656 located at 1180 West Avenue has requested a Certificate of Compliance to allow them to sell wine in their store beginning July 1, 2016.

The Certificate of Compliance for Food City was approved as recommended.

4. Bids/Purchases

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

- a. Water Line Replacement (Lantana Estates, Fairyland Acres, Holiday Drive)

Bids were received on January 19, 2016 for the water line replacements in Lantana Estates, Fairyland Acres, and on Holiday Drive. The low bid was submitted by Norris Bros. Construction in the amount of \$896,855.05. An alternate bid was also requested for the boring under driveways. The bid of Norris Bros. for the alternative was \$218,531.90. If Council chooses to pay for the boring, the total cost will be \$1,115,386.95, which is still under the second lowest base bid of Adams & Sons. The engineer's estimate on the project was \$1,276,000 for the base bid. The engineers have reviewed the bids, discussed it with Norris Brothers, and recommended award.

Tim Begley reported on the alternate bid for the boring of the driveways, which is approximately \$3,000 per driveway. If not bored, it will be cut and replaced with a like material. Councilmember Souza recused himself from the matter because his driveway is in the project.

A motion was made by Mayor Pro-tem Pamala Harris, seconded by Council Member Jesse Kerley, that bid of Norris Brothers in the amount of \$1,115,386.95, be approved as recommended. The motion carried by the following vote:

Aye: 4 - Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

Recuse: 1 - Council Member Pete Souza

b. Hwy 70N Pump Station Generator

Bids were received on February 9 for the generator to be placed at the Hwy. 70N pump station in the Catoosa Department. The low bid of Putnam Contracting Services in the amount of \$60,700 was recommended for award.

A motion was made by Council Member Danny Wyatt, seconded by Council Member Jesse Kerley, that the award to Putnam Contracting Services be approved as recommended. The motion carried by the following vote:

Aye: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

c. Sewer Rehabilitation

Bids were received on February 9. A recommendation was made to award the bid to the low bid of Gulf Coast Underground, LLC in the amount of \$1,105,337.50, following the engineer's review of the bids. The award will be contingent on approval of the funding agency (SRF). Clark Annis reported that this is part of a larger project that included the pump station at the landfill and explained the project in detail. There is a possibility of \$86,000 in local funds will be required.

A motion was made by Mayor Pro-tem Pamala Harris, seconded by Mayor James Mayberry, that the resolution awarding the bid to Gulf Coast Underground, LLC be approved as recommended, contingent on approval of the funding agency. The motion carried by the following vote:

Aye: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

5. Marketing Report

February Marketing Report

Marketing Director Billy Loggins will provide updates on the following:

- 2016 Sustainability Fair - May 19 at Community Complex
- Annual Kids Fishing Derby - June 11 at Meadow Park, the fishing net should be available
- Christmas Parade dvd's
- 25th Annual Tennessee Senior Pageant - April

- *Travel Shows were attended in Florida*
- *Tennessee Environmental Council February event on February 26 with trees to be available at the State Park*

This Report was received and filed

6. Cumberland County/Chamber Report

Report from Sheriff Casey Cox and Police Chief Rodney Shoap

Sheriff Casey Cox and Police Chief Rodney Shoap reported on their great working relationship. The crime rate has dropped significantly. Drug arrests have increased and burglaries have decreased. They attended many of the sessions on the Horizon Initiative and heard many of the issues and they are very proud of the anti-drug coalition that has started from the initiative and believe it will be a positive community-driven initiative that will make a difference. The Sheriff's Department is doing the NRA Eddie Eagle program on gun safety in every school, which allows students to build a relationship with law enforcement. Chief Shoap reported on a 15% drop in crime, which is the lowest in more than a decade. The departments work together every time they can, as well as with the District Attorney, Judges, and citizens.

Brad Allamong and Ashley Derossett reported on the work that the Chamber does regarding golf and tourism, including a new app. The funding comes from the CVB for about \$30,000.

This Report was received and filed

7. Other Business

a. Discussion and action on Downtown Waterline Project

The remaining SRF funds cannot be used on the Brookhaven and Highland Lane Project due to time constraints in acquiring easements. SRF has agreed to let the City use those funds on the downtown waterline northern extension. Along with this good news, TDOT has forced the northern waterline out of the pavement. Change orders to the contract with Ironwood Construction will be required. Change Order #2 in the amount of \$26,302.55 was presented to finalize the changes to the original project that were made in the field due to unforeseen issues. Change Order #3 in the amount of \$308,768.88 was presented for the extension to Genesis Rd. with a completion date of May 31. Approval of both change orders was recommended.

A motion was made by Mayor Pro-tem Pamala Harris, seconded by Council Member Pete Souza, that Change Orders #2 and #3 with Ironwood Construction be approved as recommended. The motion carried by the following vote:

Aye: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

b. Discussion and action on permits for moving buildings

The Codes Department recommended looking at the inspection fee currently charged

for the moving of buildings in the City. The current charge is \$200. The staff time to coordinate all the services and departments far exceed the cost the amount that is charged. The City Manager recommended a fee of \$200 for buildings moving through the City, but not locating in the City or buildings moving from a location inside the City to one outside the City. He recommended a fee of \$1,000 for buildings being moved to a new location inside the City. These fees are in addition to all other fees, bonds, or other requirements.

A motion was made by Council Member Jesse Kerley, seconded by Council Member Danny Wyatt, that this Ordinance be approved on first reading. The motion carried by the following vote:

Aye: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

c. Discussion and action on Standing Rules of the Council

City Attorney Will Ridley reviewed the proposed changes. An amendment was proposed to either require the index cards or remove the requirement rather than "encourage" their use. Mr. Ridley reminded the Council that the Mayor can decide to not recognize anyone that doesn't want to identify themselves. Those against the rules did not want to limit the number of people who can speak and for how long. They would allow the Chair to make that determination.

A motion was made by Council Member Danny Wyatt, seconded by Mayor Pro-tem Pamala Harris, that the revised Standing Rules be approved. The motion carried by the following vote:

Aye: 4 - Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

Nay: 1 - Council Member Pete Souza

d. Discussion and action on possible censure

Prior to any motion being made, Councilmember Souza raised a point of order that from the legislative text, he believed that it was an ethics complaint based on moral turpitude and that it was inappropriate. He stated the Mayor, as Parliamentarian, should make the ruling and encouraged the complaint be made to the Ethics Officer prior to coming to the Council. Councilmember Kerley asked the Mayor to take in consideration previous comments made by Councilmember Souza against the previous Mayor and that the point of order was out of place as it was to keep discussion from taking place. The Mayor ruled the point of order was well taken and that if there is a complaint it should be filed with the City Attorney or the Personnel Board.

Councilmember Wyatt started discussing Souza's past accusations during Council meetings, but was interrupted by Councilmember Souza raising a point of order that once the Mayor ruled on a point of order, the agenda item is over unless it is challenged by the Council. The Mayor ruled that the Point of Order was well taken.

A motion was made by Councilmember Kerley, seconded by Councilmember Wyatt, that the decision be appealed and that discussion continue on the agenda item. City Attorney Ridley stated that the appeal requires a majority vote.

Aye: 3 - Council Member Jesse Kerley, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

Nay: 2 - Council Member Pete Souza and Mayor James Mayberry

A motion was made by Councilmember Kerley, seconded by Mayor Pro-Tem Pamala Harris, that this City Council request an apology from Councilmember Pete Souza for his inappropriate conduct and comments toward members of this Council and citizens.

Aye: 3 - Council Member Jesse Kerley, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

Nay: 1 - Mayor James Mayberry

Abstain: 1 - Council Member Pete Souza

Councilmember Souza started to comment on previous statements by Mayor Pro-Tem Pam Harris, but was interrupted by Councilmember Kerley with a point of order that Councilmember Harris was not mentioned in the motion and the discussion should be limited to Councilmember Souza's conduct and comments. Mayor Mayberry ruled that the point of order was well taken.

Councilmember Souza stated a colleague of his when addressing censorship stated there was no intention of censorship a month ago and now this motion is about censorship. A member of the audience started commenting regarding the matter and Councilmember Souza told them they were out of order. Councilmember Kerley raised a point of order that Councilmember Souza doesn't have the right to address members of the audience. Mayor Mayberry ruled that the point of order was well taken.

Councilmember Souza read an e-mail from Councilmember Kerley and stated it was a pre-election smear campaign.

Councilmember Kerley made a statement regarding his reason for running for City Council and his concern over the City's image with the negative publicity and attacks on City staff, other members of Councilmember, and other issues that have happened during the last 38 months.

Councilmember Souza asked to speak, but Councilmember Kerley raised a point of order that the new rules allowed everyone else to speak first. Councilmember Souza stated that he last spoke over a point of order. Mayor Mayberry allowed him to speak. Councilmember Souza disagreed with the comments made by Councilmember Kerley and further stated he would not comment any further because he believed the matter would be going to litigation.

Mayor Pro-Tem Harris stated that she believed the Council had been polarized with all the major distractions over the past year.

Mayor Mayberry reminded the Council and public that there may be bad press, but other good press with the community coming together in a positive way in a number of ways and no one should lose hope.

Councilmember Wyatt discussed the fact that a lot of allegations have made over the past 3 years with a lot of people being attacked and allegations that have not been proven to be true. They were sent to the District Attorney and to the Grand Jury. Councilmember Souza raised a point of order that Mr. Wyatt was stating false information and facts regarding the grand jury. Mayor Mayberry allowed Councilmember Wyatt to continue. Councilmember Wyatt continued that the District Attorney General sent more of the other allegations to another District Attorney in Murfreesboro who stated there was no wrong doing. Councilmember Souza then submitted it to the Comptroller who sent a letter back that they weren't investigating it. He then pointed out that in a Council meeting, Councilmember Souza stated if the higher ups concurred with the grand jury, he would resign.

Mayor Mayberry called for a vote on the motion; however Randall Kidwell requested the opportunity to speak. He was recognized. Mr. Kidwell raised an issue on the

purchase of the airport property. Councilmember Kerley raised a point of order that the comments do not pertain to the motion on the floor. Mayor Mayberry ruled that the point of order was well taken.

Mr. Kidwell responded that the censure should be a written complaint.

Councilmember Kerley raised a point of order that there is no motion on the floor for a censure.

Councilmember Souza asked why Councilmember Wyatt was allowed to discuss the past, but not a member of the public.

Mayor Mayberry asked the City Attorney if the motion on the floor could be done.

Mr. Ridley responded that the Council can pass a motion on anything they want to, but he would advise not to pass it. He further stated that he represents the Council as a whole.

Steve Frank asked to be recognized to speak. Mr. Frank stated that one councilmember accused Councilmember Souza of have a meeting with people who were going to sue the City and that he set up the meeting and that it was not true.

They are concerned about the possibility of a lawsuit being filed over the grant application previously approved. Mayor Pro-tem Harris responded regarding an e-mail that was circulated from the City Manager, which stated that Mr. Souza said the group might be considering suing the city. Councilmember Souza said that he had phone calls from people that were extremely angry and and he was trying to diffuse the situation in case they might file suit.

(At 7:29 p.m. the meeting was recessed by the Mayor to confer with the City Attorney. It was reconvened at 7:35 p.m.)

A motion was made by Mayor Mayberry, seconded by Councilmember Kerley to call for the previous question.

Aye: 5 - Council Member Pete Souza, Council Member Jesse Kerley, Mayor James Mayberry, Mayor Pro-tem Pamala Harris and Council Member Danny Wyatt

Vote on original motion requesting an apology was taken at this time. – Votes-Aye (3) Mayor Pro-Tem Pamala Harris, Councilmember Danny Wyatt, Councilmember Jesse Kerley; No (1) Mayor Mayberry; Abstain (1) Councilmember Pedro Souza.

Councilmember Souza stated that the request was denied.

8. City Attorney's Report

City Attorney's Report

City Attorney Ridley reported that a new lawsuit was filed on a police matter. It has been referred to TML for defense.

He gave an update on the Administrative Hearing program. The Chancellor approved the order to demolish the properties on Brown Ave. and Genesis Road. The Genesis Rd. demolition is scheduled to come down by city forces. Following that, it will go back to the Chancellor for award of damages. The Brown Ave. property has two structures, but a local business owner has offered to demolish the property at his expense as he will be purchasing the property. There are back taxes that he will pay within 30 days of taking ownership and reimburse the City for the costs of the hearing, which are \$2068.52. He has asked the City to release the remaining portion of the lien. This request will be put on the next work session to discuss further and for Council approval to remove the lien.

On the Inn of the Cumberland, a fine of \$100,000 was awarded by the Administrative Hearing Office, which represents the estimate of the cost for demolishing. The City is still trying to contact property owners.

There are 3 other properties in the process for hearings.

Councilmember Souza asked the City Attorney if he had any information on the box he sent to Melissa Ashburn. Mr. Ridley did not have anything to report.

This Report was received and filed

9. City Manager's Report

City Manager's Report

City Manager David Rutherford gave the month report on revenues for local option sales tax, retail liquor, beer tax. He also gave reports on building permits, current grants/projects, special projects, and debt schedules.

He reported that one of the light poles at Garrison Park fell down and is being replaced by VEC, as they are rented.

This Report was received and filed

10. Public Comment

Public Comments

1) Dr. Jack Miller

2)

3)

David Brockway asked that the properties on Prentice Street be boarded up while they go through the administrative hearing process. He also spoke regarding the mower being used at the airport by the FBO and his concern about liability.

Vancienetta Wisdom stated that she is proud of Crossville for its past and its future.

Randall Kidwell commented about people meeting at City Hall. Mayor Pro-Tem Harris raised a point of order that he needed to address the Chair and not members of Council. He read from the Tennessee Constitution.

The comments were received.

ADJOURNMENT

A motion was made by Council Member Jesse Kerley, seconded by Council Member Danny Wyatt, that the meeting be adjourned. The motion carried unanimously. The meeting was adjourned at 7:57 p.m.