

City of Crossville

392 N. Main
Crossville, TN 38555



Minutes

Tuesday, November 24, 2015

5:00 PM

Council Chambers

Call for Special Meeting

Mayor James 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

The City Council for the City of Crossville met in special session on Tuesday, November 24, 2015, at Crossville City Hall.

Call to Order

Roll Call

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

Absent 1 - Council Member Pete Souza

Others present were City Manager David Rutherford, City Clerk Sally Oglesby, Heather Mullinix, Pauline Sherrer, Andy Vaughn, Rodney Shoap, Mark Steinman, Mark Rosser, Levonn Hubbard, John Turner, Dr. James Barnawell, Tim Begley, Kyle Turner, Laney Colvard, Bruce Wyatt, Chris Bennett, Sue York, Chuck Clapper, George Paulisin, Woody Geisler, Jerry Kerley, Art Wojta, Judy Wojta, Kay Whiteaker, Mike Turner, and Randy Graham.

- 1) Discussion and action on counteroffer regarding lawsuit with J. Hicks Excavating

Mr. Rutherford informed the Council they had received a counter-offer of \$92,000 to settle the lawsuit. He reviewed the offer and recommended that the Council vote the counter-offer up or down. Mayor Pro-Tem Harris expressed her concern about the additional legal costs, if it goes to trial. Mr. Rutherford pointed out that if the counter-offer is rejected, the lawsuit goes to trial for the original amount of approximately \$208,000 plus legal fees, although the Judge will probably asked for a settlement conference.

A motion was made by Council Member Jesse Kerley, seconded by Council Member Danny Wyatt, that the counter offer of J. Hicks Excavating in the amount of \$92,000 be rejected and the settlement offer of \$108,000 be extended for one additional week. 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

Absent: 1 - Council Member Pete Souza

- 2) Discussion and action on the revocation of any authority (expressed or implied) for Councilmember Souza's Airport Business Plan

Councilmember Kerley stated that he was unable to attend the November meeting when he had put it on the agenda. He believes that the matter has been discussed enough and that the report contained a lot of inaccuracies that became an affront on CroSsville Aero and he was disappointed in the way Councilmember Souza has handled it.

Mayor Mayberry stated that he doesn't believe Councilmember Souza has any authority for implementation of the recommendations and that he also had concerns with the contract, but those are being worked out to come back to the Council for review in January. Mayor Pro-Tem Harris commented that she believes the Council unintentionally made an error in allowing him to present the plan and that if the Council had concerns, they should have been given to the City Manager, which would have avoided all the controversy that has caused a lot of embarrassment to the community.

Councilmember Wyatt commented that it hasn't been fair to the airport with all the negative publicity because we have a nice airport. He pointed out that most of the larger projects have either been 90/10% or 95/5% grants and that it is time for the City Manager to address any issues that are still of concern. He asked that the City publicize the positives. City Manager Rutherford read a statement from Councilmember Souza indicating that he felt the item was politically motivated and that he still has reviews to complete on the grants that come in and the contract with Crossville Aero. Mayor Mayberry commented with his vote that he was voting "no" because he didn't believe there was any authority to revoke.

A motion was made by Council Member Jesse Kerley, seconded by Mayor Pro-tem Pamala Harris, that any authority, expressed or implied, for Councilmember Souza's Airport Business Plan be revoked. The motion carried by the following vote:

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

Nay: 1 - Mayor James Mayberry

Absent: 1 - Council Member Pete Souza

3) Discussion and action on excessive use of City Manager, City Clerk, and staff

Councilmember Wyatt asked the City Manager about the time spent by staff on the airport plan. He also indicated that he knew that there have been a lot of inquiries to staff that go around the City Manager. Mayor Pro-Tem Harris reviewed the sections of the Charter that point out that the Council is for policy making and development of the community and not to interfere with day-to-day operations. Councilmember Kerley pointed out that he's been told that Councilmember Souza regularly goes straight to departments without going through the City Manager and that is an issue. Mayor Mayberry reminded the Council that the same restrictions apply to everyone on the council. Councilmember Kerley stated that an earlier action by a previous Council stated that all information pulled by one member must be shared with all members of Council and he was not sure that was always being followed. Mayor Pro-Tem Harris agreed that it had happened and the Council has been blindsided. Councilmember Wyatt commented that the Council's job is to legislate not investigate. Mayor Mayberry stated that the airport plan was an unusual thing and Councilmember Souza was given informal approval by the council to talk to staff, which was an exception to the rule.

Mr. Rutherford read Councilmember Souza's written comments which indicated that he would not be censored and that he had the right as an elected official to have access to all but a few private records. He also stated that he worked for the citizens not for the Council.

A motion was made by Mayor Pro-tem Pamala Harris, seconded by Council Member Danny Wyatt, that all members of the City Council adhere to the Council-Management form of government as specifically outlined in Article XVI, Section 2 (Council-Manager Relationships) in the Charter. 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

Absent: 1 - Council Member Pete Souza

Councilmember Kerley pointed out that the concerns are not about the information, but the method used to address them. He also stated that he thinks all the publicity has shown how good the airport is run and Councilmember Souza is tying up the employees needlessly. He believes that Council has the right to pull whatever information they want, but they should pay the costs for requesting the information. Councilmember Wyatt pointed out that the new Jet A pump will give more information on the fuel sales that have been questioned. He also asked that all members of Council take any legal issues or concerns to the appropriate law enforcement agencies to investigate. Mayor Mayberry commented on some good things that have been pointed out in the airport plan such as security concerns, some of the older hangars needing attention, and clarifying the fuel situation. He expressed concern about setting a precedence on Council members being charged for inquiries and that it should be applicable to all members. At the request of Councilmember Wyatt, City Clerk Sally Oglesby reviewed the latest information request, which includes generating a report that is not available, on all contracts since 2008 issued over \$5,000 for the airport with detailed information. She indicated that she has not started working on it because she had more pressing matters to attend to for the City. Mayor Pro-Tem Harris stated that she would like to see all the issues sent through the City Manager without bringing them directly to Council. She pointed out that Councilmember Souza's items on the attorney bills since January 1 are 4 times the amount of any other Councilmember. Councilmember Wyatt stressed that other cities are taking advantage of the dysfunction created by all the controversies.

A motion was made by Council Member Jesse Kerley, seconded by Mayor Pro-tem Pamala Harris, that Councilmember Souza be charged for any more information he requests regarding the airport or Crossville Aero unless the entire Council requests the information, in accordance with the Open Records Act. 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

Absent: 1 - Council Member Pete Souza

4)

Discussion and action on Vista of Tennessee

Councilmember Wyatt stated that Councilmember Souza brought up the questions about Vista of Tennessee and their business license last year. City Clerk Oglesby reported on her correspondence with the TN Department of Revenue and that the matter has been turned over to them. Councilmember Kerley commented that Councilmember Souza has brought up several people and their business licenses and he would like the City Manager to ask for a copy of Mr. Souza's electrical license. The City Clerk reviewed the process on business licenses. Mayor Pro-Tem Harris stated that she sees this as an administrative matter that doesn't belong in the Council Chambers. Mr. Rutherford read Councilmember Souza's comments regarding Vista of Tennessee, which included concerns of conflicts of former Mayor Graham in voting on Crossville Aero and the calling of the meeting while he was out of town. Mayor Pro-Tem Harris stated the meeting was called by three people because they felt the items need to be discussed. They did not know that Councilmember Souza would be out of town. Councilmember Wyatt commented if it's all illegal, Councilmember Souza needs to report it.

A motion was made by Council Member Danny Wyatt, seconded by Council Member Jesse Kerley, that the City has reported this to the TN Department of Revenue and that, unless the City Manager needs some information on it, we let the Tennessee Department of Revenue handle this matter. 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

Absent: 1 - Council Member Pete Souza

ADJOURNMENT

With no further business, the meeting was adjourned at 5:46 p.m