

**CITY OF HORSESHOE BAY**  
**CITY COUNCIL MEETING**  
**MINUTES**

The City Council of the City of Horseshoe Bay held a Public Meeting at City Hall January 19, 2016, beginning at 3:00 p.m. in accordance with duly posted notice of said meeting with the following members present:

Stephen T. Jordan, Mayor  
Craig Haydon, Mayor Pro Tem  
Cynthia Clinesmith, Council Member  
Jerry Gray, Council Member  
Reagan Lambert, Council Member  
David Pope, Council Member

The posted agenda for this meeting is made a part of these minutes by attachment and the minutes are herewith recorded in the order the agenda items were considered, with the agenda item number and subject shown preceding the applicable paragraph.

1. Call the Meeting to Order and Establish a Quorum: Mayor Jordan called the meeting to order at 3:00 p.m. stating a quorum was present. He said copies of the agenda were available on the podium and asked that anyone who would like to make comments please sign the sheet on the podium and go to one of the podium microphones when it was their turn to speak.
2. Invocation: Council Member Lambert gave the invocation.
3. Pledges to the Flags: Mayor Jordan led the pledges of allegiance to the United States flag and the Texas flag.
4. Public Comments: There were no public comments.
5. Conduct Public Hearing Pursuant to Local Government Code Section 43.063 Giving the Public the Opportunity to be Heard Regarding the Intent to Annex Five Areas Located in the City's Extraterritorial Jurisdiction into the City Limits: Mayor Jordan spoke to the people who received notice of annexation stating he did regret not reaching out to them in advance in order to give them a better understanding of the City's intent and purpose for the annexation. He said it was clear that the initial letter that was sent out may have confused some and did not clearly state what the City's purpose was and subsequently new letters had been sent to property owners in areas 1, 2 and 4. Mayor Jordan reported these letters extended the terms of the development agreement to three years with automatic renewal which could continue on to 45 years. He said in addition the letter explains that those who have agriculture exemptions or a conservation easement at this time will be able continue those under the ETJ status. Mayor Jordan said those properties in The Hills and Area 3 and chose to be annexed then those agriculture exemptions would continue. He said the lack of

adequate information that went out to the property owners occurred on his watch and as Mayor he apologized for the lack of consideration. Mayor Jordan said he hoped the property owners now know if they sign the development agreements their property will not be annexed. The City's sole purpose in doing this was to protect the borders as they have learned there was not sufficient protection provided for the ETJ. He said the City wanted to continue to be a good neighbor and protect the City's heritage as well as the property owners'. Mayor Jordan explained at the January 12, 2016 public hearing he heard many owners speak of the land being in their families for many years and in some cases several generations and these were inspiring stories and he wanted them to know the City was not trying to change a thing with regard to their properties and the use of them. He hoped they understood the City was going forward for the benefit of all in order to protect the borders and not allow the type of use or development that would be undesirable. The beauty and serenity is enjoyed by everyone driving on Hwy. 71. His goal is to restore their trust and to be good neighbors.

Mayor Jordan convened the public hearing at 3:10 p.m. Steve Allison spoke representing Carol Sue Purcell, owner of about 560 acres south and fronting Hwy. 71 which had been in her family 150 years. He said the City's plan to annex her property has caused concerned regarding why that property would be important for annexation. Mr. Allison said there were several of these ranches that are strictly ranch properties and would not have any tax revenue as they are all ag or conservation exempt or otherwise protected. He said the Mayor's explanation helped quite a bit and would have been beneficial earlier in the annexation process. Mr. Allison said he felt they did now have confirmation that any ag exemption, hunting, buildings that are in place or under construction will be protected whether it is through annexation or the development agreement that these would be grandfathered which would settle some concerns; Leo Lawler, owner of property at 1006 CR 311, reported they had owned twenty acres there since 2006 and they raise purebred red angus cattle on their land. He stated CR 311 was not appropriate to be incorporated in the HSB city limits due to the fact there are a lot of mobile homes, multiple outbuildings, boats, RVs, trucks, trailers that are all parked outside along this road. Mr. Lawler said this area is rural agriculture and incongruous to the HSB type of development. He said the road was barely acceptable in terms of construction, being narrow enough that trucks and trailers had to pull over to pass each other at times. Mr. Lawler said until recently it did not have striping and there were accidents on the hill. He said the residents thought including CR 311 in an annexation design that was focused on Hwy. 71 development is unnecessary and against their desire. Residents wish to remain rural and if this would be disruptive and expensive for them to comply with HSB rules and regulations, one issue would be the housing of all the things that are currently stored outside. They think it would be a poor price value to everyone including the current HSB residents that have to submit, they think, outside taxation for something that doesn't provide any value to them. Gordon Denton, HSB resident spoke regarding his concern as to the way this procedure was going on and the fact the City was not necessarily acting in the best interest of all concerned. Mr. Denton said he was a Rotarian for 35 years and he used their 4-way test and encouraged the Council to use the test of *is it the truth, is it fair, is it beneficial to all concerned and would it build better friendships amongst all concerned* and make sure this was carried through in this annexation. He said he knew any agreement with a government body puts a lot of people wondering what the catch was and he hates giving up some of his rights for no apparent reason and as a property owner, especially as one that has

had land in their name for a long time, perhaps before the Texas state constitution was written, they had certain rights and by annexing or maybe even entering into an agreement, such as the ETJ agreement or anything of that nature they might have to give up some of these rights. Mr. Denton said remembering from contract law the only thing that made contracts enforceable was whether there was consideration, something given on one side for something given on the other side and maybe the City needs to figure out what they can give the landowners that would be consideration for giving away some of their land development rights. Brad Gobel, a local real estate agent in HSB said he had several of the ranches listed out along Hwy. 71. He said roughly 1200-1500 acres and several of the owners were present. He said he wanted to clarify that the City was now offering a three year agreement with automatic three year renewals; however, there was a termination of that agreement after the first three years by either party with six months written notice. Mr. Gobel said he brought that up because the council members would change and there would be new members and within six months after the first three year agreement, if the City wanted to annex that property they could by giving the owners six months' written notice. He wanted to bring it up so everyone would be aware. Mr. Gobel said several of his land owners were concerned about this, they knew annexation was inevitable and they were just trying to get the best agreement they could. He said the majority planned to leave their property ag or wildlife exempt and at some point when development occurs they realize that by signing the agreements they will automatically be voluntarily annexed. Mayor Jordan asked if there were any other speakers. There were none and he adjourned the public hearing at 3:20 p.m.

6. Discuss, Consider and Take Action Regarding the Annexation of Five Areas Located in the City's Extraterritorial Jurisdiction into the City Limits: Council Member Clinesmith spoke stating that she appreciated the history of some of the ranchland south of Hwy. 71 told at the January 12, 2016 meeting and thanked the Mayor for his comments. She said she felt the Council was taken aback having assumed a neighborly letter was sent out prior to the beginning of the process. Council Member Clinesmith asked for clarification regarding CR 311 and confirmed that it backed up to The Trails. There was discussion regarding this area and the availability of development agreements for that area. It was determined that State statute only allows properties with agriculture exemption to be eligible for development agreements. Council Member Clinesmith stated she wanted to make sure the City was cognizant of "sprawl", and where the border will end as the City will always have a border. Mayor Pro Tem Haydon said he asked Wayne Baylor in The Hills if they had concerns about their property backing up to Quail Ridge and they did not. He said he was not sure there was a need to annex this section. City Manager Farmer said part of Quail Ridge (Area 2) borders on the west side of RR 2831. Council Member Pope stated he did not see a pressing concern to annex the properties on CR 311 at this time. Leo Lawler, Quail Ridge property owner, stated his property was a 20 acre parcel and adjacent to the back of The Trails and the area designated for the caretaker whose house is there and an equestrian boarding barn was there as well. He said his property was not currently agriculture exempt but they use the land for their cattle breeding business and are working on getting the agriculture exemption from the County. Council Member Gray asked what The Overlook represented as a percentage breakout of Area 2. City Manager Farmer said about 80 acres of The Overlook was in the HSB ETJ which was negligible. Council Member Gray if the City was within the 30% maximum in order to even consider annexing all of these areas. Mr. Farmer said if the ranch

owners sign the development agreements then that acreage would not count against the 30% maximum number. City Attorney Baker said most of the owners in Area 1 and most of the owners in Area 4 had agreed to sign the development agreement. Council Member Clinesmith asked if there had been some expressed concerns from landowners on RR 2831. Mr. Farmer said no but the logic was the same as for Hwy. 71. City Attorney Baker confirmed the development agreements could be terminated after the first three years, with six months' notice from either party. He said this was a safeguard because the current council does not want to bind future councils and as land uses change as the City grows different people might have different thoughts on it but if these areas were annexed they would still be grandfathered on the agriculture exemption and if the use did not change then there should be no problem. Brad Gobel said he understood this part of it and then clarified that as long as owners keep their land ag exempt nothing would change and Mr. Baker concurred that was the feeling of the current Council. Mr. Gobel said there were different things that would happen to land that would be different than it was now and would include the requirement to get building permits from the City; however, Mr. Baker said that if you are currently in the ETJ you already are required to get a building permit from the City. Mr. Baker said if your property was not annexed then status quo, if you want to build a building and you are within the City's ETJ you would have to get a building permit due to local agreements between the counties and the City. Mr. Baker explained if your property was annexed it would be subject to being zoned as with any property that comes into the City through annexation is zoned and when it is initially zoned if it is open space it is zoned Recreational and if you have a subdivision it comes in a R-1. He said one of the things the City is doing for The Hills for example was to have a specific zoning R-Rural Residential which would include ag exempt and adopt their CCRs into that zoning so all their rules would be in that zoning designation. Mr. Gobel asked what cost would be involved; he mentioned Stacy Holland when they purchased 77 acres and the legal costs they incurred dealing with all the City's requirements. He said he understood the six month clause; however, there was still uncertainty for the landowners. Mr. Baker reported the Council had instructed him to revise the original development agreements in order to give the property owners more certainty and that was why they did the three years with automatic renewal unless somebody changes the use of their property. Mr. Baker said the agreement states for the benefit of the current owner and their successors and assigns so whenever someone buys it they can take it subject to the development agreement. Mr. Gobel asked if there was an issue leasing the property and Mr. Baker said no. Ruth Newman, HSB property owner, expressed concern regarding the City annexing areas when she feels the City is hard pressed to provide services now and could the City afford to annex this property. Council Member Clinesmith said she thought the Council was going to receive this information today. City Manager Farmer said this was called a service plan and that it would be part of the final annexation ordinance but he would have it for the Council next month before the meeting. He assured her there was no cost, no requirement to run water or sewer lines out to all these places or put in roads, developers would have to take this on so there was no cost there. There would be very minimal cost for police and fire but these are undeveloped areas so there was no need to hire additional police officers, so the cost would be marginal if anything at all. Ms. Newman asked that the Council provide full service to all the people that are in the City, some of the streets in her neighborhood were not paved for one reason or another

and there are times things do not get mowed. She said she would like to see the City pay attention to what it has now before the borders are expanded.

Mayor Jordan said the Council could take action today if they chose. He said first the 90 acres of the Krumm Ranch that Cottonwood Shores Mayor Orr asked to be excluded from the annexation could be discussed. Mayor Pro Tem Haydon made the motion to exclude this area from the proposed annexation, seconded by Council Member Pope. Motion passed unanimously (5-0).

City Manager Farmer reported there is a subdivision on Hwy. 71 on the edge of the City's ETJ called The Overlook and the first half of the subdivision is in the City's ETJ. City Attorney Baker had reviewed their CCRs and they provide a great deal of protection so he did not feel the City would have any concerns. Mayor Pro Tem Haydon made the motion to exclude The Overlook from the proposed annexation, seconded by Council Member Pope. Motion passed unanimously (5-0).

It was determined each of these areas could still be annexed at a later date if necessary.

The Council discussed Area 2 which lies between RR 2831 and CR 311. It was determined some of this property is agriculture exempt but others are not; however, the area is rural with no development taking place. Donna Knox spoke stating her property was agriculture exempt and they are concerned about being annexed although there would be some benefits to them as they pay double rates currently for water from the City. Council Member Haydon said he had spoken to Wayne Baylor in The Hills and he did not express any concern that Area 2 should be annexed to protect The Hills. The Council had additional discussion regarding Area 2 annexation but determined it was premature to make a decision. The consensus of the Council was to delay a decision until the February Council meeting.

7. Items to be removed from the Consent Agenda: Council Member Gray asked that items 8.b. and 8.c. be removed from the Consent Agenda.
8. Consent Agenda Items:
  - a. Approval of Minutes of the December 15, 2015 Regular Meeting
  - b. Approval of Resolution to Withdraw from Llano County Emergency Management Plan Participation and Adopt a City of Horseshoe Bay Emergency Management Plan
  - c. Approval to Appoint Norm Long to a one-year term as the of Chairman of the Planning and Zoning Commission
  - d. Approval to Change Fire Department Personnel Compensation Pay from Compensation Accrual to Overtime Pay Per the Personnel Policy Article VI, Payroll, Section 4, Payment of Overtime Pay Services
  - e. Approval of Resolution to Designate the City's Official Newspaper

Mayor Pro Tem Haydon made the motion to approve the remainder of the Consent Agenda, seconded by Council Member Pope. The motion passed unanimously (5-0).

Council Member Gray said anytime the City takes responsibility for something that had been the responsibility of another party it should be determined if there is any financial impact to the City with regards to that action. Fire Chief Morris reported there would be no financial impact and that the City is already operating in this mode and this action only formalizes

what the City is already doing. Council Member Gray made the motion to approve this item as presented, seconded by Council Member Pope. The motion passed unanimously (5-0).

Council Member Gray questioned whether the Planning and Zoning Committee was supposed to make the recommendation to the Council appointment of the Chairperson. Development Services Manager Winter said it was his understanding that the appointment was made by the Council. Council Member Gray said he knew that but in the past the recommendation had come from the P & Z Commission and this was deviating from the traditional way this had been handled in the past and he would like to have the comfort that members of the Commission supported the appointment. Council Member Gray made the motion to postpone this item until the February Council meeting. City Attorney Baker read from the ordinance that “the City Council shall appoint a chairman from among the membership of the P & Z and the P & Z shall elect a vice-chairman.” Motion failed from lack of a second. Mayor Pro Tem Haydon made the motion to approve the item as presented, seconded by Council Member Pope. The motion passed (4-0-1) with Gray abstaining.

9. Monthly Statistical Departmental Data Reports:

- a. City Manager; Administration; Community Services; Development Services; Fire Dept.; and Police Dept.

City Manager Farmer pointed out that the Fire Department’s monthly report was in a new format which contained graphs of the data provided and the Police and other departments would add the graphs to their reports for February.

10. Presentation of City Quarterly Financial Report: Finance Director Larry Anderson presented the fiscal year 2016 first quarter financial report.

11. Update Regarding the Street Improvement Plan: City Manager Stan Farmer reported that The Highlands area is complete with asphalt and ribbon curb and the contractor is currently cleaning up the area. He said the final invoice should be sent soon and would be processed but he included this item since the entire project’s paperwork was not completely finished. The project was still under budget and he should have final numbers for the Council soon.

12. Discuss, Consider and Take Action Regarding Mausoleum Road Improvement: City Manager Stan Farmer reported the City and HSB POA are working together to improve this road and provide a better parking area at the Mausoleum. Currently, the City is still planning to install a new improved road over the current road; however, the quote from Aaron Concrete is now \$134,000 for the improvement. Initially, it was \$130,000; however, due to remobilization because they have already left the area. Mr. Farmer said the addition of the parking lot improvement, which the City owns, for a 1-1/2 asphalt overlay for a new overall total of \$139,000. He said the HSB POA was taking responsibility for purchasing and installing a new cattle guard at the entrance to the parking lot plus a metal removable bollard to prevent vehicles from driving down the concrete path to the mausoleum. The HSB POA still needs to sign agreements to relinquish easements over the road and the parking lot and take responsibility for the concrete path to the mausoleum. Mr. Farmer stated City Attorney

Baker and he had talked to HSB POA General Manager and they might have more to add. HSB POA President Darlene Bowles said the POA just today received the bid on the various items mentioned by Mr. Farmer and their board would be meeting the next day to finalize their decision on how to move forward with those expenses and they would get back with the City then. Council Member Gray asked if the City had a time-line guarantee on the current quote of \$139,258. City Manager Farmer said it is usually 30-days and should be able to easily get started in that time period. Mayor Pro Tem Haydon made the motion to approve proceeding with this project contingent on the HSB POA fulfilling their obligation as mentioned above and to approve the new amount of \$139,258, seconded by Council Member Gray. The motion passed unanimously (5-0).

13. Discuss, Consider and Take Action Regarding Open and Concealed Carry and Firearm Signage: Police Chief Rocky Wardlow reported on the newly enacted law that allows open carry of handguns in Texas and various options for when and where this can be prohibited in City buildings. He explained locations where it could be prohibited are room(s) where meetings of a governmental entity are held and the meeting is an open meeting subject to chapter GC 551 so the Council could chose to prohibit open or concealed carry of a handgun at those meetings provided signage prescribed by statute is posted at the public entrance into the Council Chambers. Chief Wardlow added that Council also has the ability to choose whether to prohibit firearms, specifically long rifles and/or shotguns regardless of whether the person is a licensed handgun holder or not at certain locations such as municipal parks and/or public meetings of a municipal or other governmental body with the posting of a notice at the public entrance that guns or firearms are not allowed. City Manager Farmer listed each different option for the Council to choose regarding this item as well as displaying samples of the required signs. After discussion, Council Member Lambert made the motion to approve enforcement of 30.07 disallowing concealed carry during meetings and posting of the sign disallowing long guns to be carried in City parks, motion failed for lack of a second. Council Member Pope made the motion not to post any signs during open meetings in Council Chambers and to not post the sign disallowing long guns in City parks, seconded by Mayor Pro Tem Haydon. The motion passed (3-1-1) with Lambert voting against and Clinesmith abstaining.
14. Discuss, Consider and Take Action Regarding Request by The Bible Church of The Lakes for a Variance from Section 3.06.016(5) of the Sign Ordinance to Allow an Exempt Freestanding Sign that Exceeds the Maximum Size Requirement of 16 Square Feet (24101 Highway 71 E. in the ETJ): Development Services Director Eric Winter reported this was a request to allow an exempt freestanding sign that exceeded the maximum size requirement. He said the church had erected this sign to replace the previous freestanding sign on the property. He reported there are objections to the sign and copies of emails were included in the Council's packet. Mr. Winter said positive modifications have been made to the sign since it was first installed to include less brightness and turning the sign off from midnight until dawn and based on the analysis staff recommended approval of the variance to allow the oversized sign. Council Member Gray asked if the sign was already up and did City ordinance prevent lighted signage. Mr. Winter said that the sign had already been installed and a sign for a church was exempt per the ordinance and the only thing the City could enforce was the size could not exceed 16 square feet in area. Keith Woody, president of the Sandy Harbor Association and president of the Sandy Harbor VFD. He said he was speaking

regarding some concerns raised in his community. Mr. Woody said the residents are proud of CR 311 as an entrance to their community and they are not in favor of this sign. Sherman DeBusk owns the property on the northwest corner of Hwy. 71 and CR 311 and is a neighbor of the church and the sign. He said his house is 900 yards from the light and it is extremely bright at his house at night. Mr. DeBusk said he is a master electrician and served on the Austin Electrical board for nine years. He said he thought this light could possibly be a traffic hazard at its current brightness. Mr. DeBusk said there are other types of signs that are more suitable for this area and was against approving the variance for the oversized sign and having that type sign at all. Council Member Pope said he is a member of this church and they have recently had it turned off until they can have it reprogrammed so it would not so bright. They plan to have it show the services with topics on one side and then periodic church related messages on the other and that if the Council approved the variance then he would ask that it be subject to the light being held to a certain level. Council Member Gray said he found it disturbing that the ordinances allow this type sign. Mr. Winter said LED signs are not permitted in the City; however, because this sign is at a church it is exempt from the City's ordinance regulations except for the maximum square footage clause. Council Member Gray made the motion to deny the variance and activate an initiative to amend the current ordinance to exempt internally lit signs and that the City explore their options in order to have the existing sign taken down, seconded by Council Member Lambert. Motion passed (3-1-1) with Pope voting against and Haydon abstaining.

15. Discuss, Consider and Take Action Regarding the Preliminary Plat of Gynergy Villas At Horseshoe Bay, a 63 Lot R-4 Townhouse Subdivision, With Two New Streets, a Clubhouse, a Swimming Pool, a Water Feature and Several Common Areas, Including a Common Area For a 40,100 Cubic Foot Retention Pond on a 10.95 Acre Tract (On The Northwest Side of Golden Nugget, Southwest of The First Lot on The Northwest Corner of Golden Nugget and Broken Hills, and across from Westgate Loop And Westgate Subdivision): Development Services Director Eric Winter reported that the Planning and Zoning Commission at their meeting on January 13 continued this item until its next meeting on February 2 based on issues brought up at the meeting. Based on their action the City Council would not be able to take action on this item at this time and needed to continue the item until the February 16 meeting where the Planning and Zoning Commission's recommendation from their meeting would be provided. This item was continued until the February 16, 2016 Council meeting.
16. The City Council, meeting as the Board of Adjustment, will Conduct a Public Hearing, Discuss, Consider and Take Action Regarding:
  - a. Request for a Variance from Section 14.02.406(a)(5) of the Zoning Ordinance Which does not Allow Visible flat Roofs on any Building or Structure, to Allow Construction of a new Residence with a Visible flat roof on Lot No. 12027-A of Horseshoe Bay (402 Lighthouse Dr.)

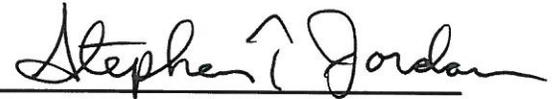
Mayor Jordan convened the public hearing at 5:25 p.m. Development Services Director Eric Winter said this was a Board of Adjustment public hearing regarding a variance for a visible flat roof. Mario Segovia with Dick Clark and Associates spoke representing David and Robin Kehoe who are the owners of 402 Lighthouse Drive. He reported his firm designed the house with respect to this particular lot and in order to reduce the massing a flat roof was

necessary and the proper esthetic for the modern style of this home. Council Member Gray asked if anyone had addressed the reason the City prohibits flat roofs. It was determined these roofs are not allowed in the CCR's of the subdivision. Council Member Clinesmith asked if neighbors had been notified and was told notices had been sent regarding the public hearing to every property owner within 200' notifying them of the request and the public hearing. She asked that this information be included in the summary sheet in the Council packet in the future. The public hearing was adjourned at 5:27 p.m. Mayor Pro Tem Haydon made the motion to grant the variance as presented, seconded by Council Member Pope. The motion passed unanimously (5-0).

17. Adjournment: Mayor Pro Tem Haydon made the motion to adjourn at 5:33 p.m., seconded by Council Member Pope. Motion passed unanimously (5-0).

APPROVED this 16<sup>th</sup> day of February, 2016.

CITY OF HORSESHOE BAY, TEXAS



Stephen T. Jordan, Mayor

ATTEST:



Teresa L. Moore, TRMC  
City Secretary

