

CITY OF HORSESHOE BAY
CITY COUNCIL PUBLIC MEETING
MINUTES

March 16, 2010

The Council of the City of Horseshoe Bay held a Public Meeting at City Hall, located at #1 Community Drive, Horseshoe Bay, Llano County, Texas, March 16, 2010, in accordance with duly posted notice of said meeting. Mayor Bob Lambert called the meeting to order at 3:00 p.m. with a quorum of Council Members present as follows:

Robert W. Lambert, Mayor
James E. Babcock, Mayor Pro Tem
Claudia Haydon, Councilperson
Phillip Lee, Councilperson
Steve Spence, Councilperson

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 subject and item number shown preceding the applicable paragraph.

1. Call to Order and Establish a Quorum: Mayor Bob Lambert called the Public Meeting to order at 3:00 p.m. with a quorum present. Mayor Lambert said Councilperson Robinson is out of state and unable to attend this meeting.
2. Invocation: Dr. Pete Christy, Senior Pastor of The Church at Horseshoe Bay gave the invocation.
3. Pledges to the Flags: Mayor Lambert led the pledge of allegiance to the United States flag and the Texas flag. He welcomed everyone to the meeting and asked that anyone who wanted to make comments please sign the sheet on the podium.
4. Public Comments: There were no public comments.
5. City Attorney Agreement: Mayor Lambert introduced Rex Baker as the new City Attorney. Councilperson Babcock made a motion to authorize the mayor to sign the agreement with the City Attorney. The motion was seconded by Councilperson Spence. The motion passed unanimously (4-0).
6. Staff Recognition:
 - a. Al Morgenroth – 10 Year Service Award
 - b. T.J. Cox

Mayor Lambert presented Al Morgenroth Field Operations Supervisor with a plaque in appreciation for his 10 years service to the City.

Mayor Lambert also presented Officer T.J. Cox with a Life Saving Award for his actions on March 4th which resulted in saving the life of a resident who was attempting suicide.

7. Street Upgrade and Maintenance Plan: Mayor Lambert said several people had asked to speak. Mike Walsh said he was here on behalf of The Trails Development in response to the petition currently circulating regarding the City using ad valorem taxes to pay for upgrades to streets that the City has inherited located in the HSB POA. He said they are obviously opposed to that since their streets are not owned by the City. Mr. Walsh said The Trails paid for good streets and pays to maintain them. He also said he wanted to thank the Council for the time they have spent on developing the City's street policies and he thinks the Council did a good job and he would like to see the City continue with them. Randy Pitkin, President of The Peninsula POA, stated they feel if ad valorem taxes were used to upgrade the HSB POA streets it would be an unfair tax to their residents and the properties there and he hoped the Council would not do that. Mr. Pitkin added they feel using an assessment would be the most fair way to handle this. Next Dean Blaine, President of the Escondido POA, said Escondido residents pay for maintenance of their streets through their POA dues so using ad valorem tax money to pay for street improvements in other subdivisions would be unfair and a form of double taxation. He feels a resolution for the street improvements needs to be found but feels an assessment is a fair way to improve those streets because it does increase the property value of those properties. Bob Black, a resident of Applehead Island, stated he is speaking for himself and he would like to commend the Mayor and Council on the work they have done on the street program and the long hours and time and effort they have made. Mr. Black said he supports the plan they have come up with and feels the key element is the enhancement and improvement of the street and over a number of years it will improve the street situation in HSB and they will not be in the shape they are today. The Council devised the assessment plan where if there are certain areas that want to go ahead with an upgrade to their streets they can and if they don't want to they don't have to. The next speaker was Ken Martin President of the Matern Island who said he was speaking for himself. He said he supports the City's street plan and feels due to the economy and lower cost of materials he feels now is the time to get started.

Mayor Lambert said personally he was very concerned about the inaccurate information going around the City the past few days and characterized a lot of it as "make believe and irresponsible"; however, a significant number of people signed a petition expressing opposition to street assessments. Therefore, the question before the City Council is what do we do now? Mayor Lambert added that there did not seem to be a consensus on upgrading and financing related to residential streets, but there does seem to be a consensus that it is ok to make major improvements to major arteries like Bay West Blvd. and HSB Blvd. using ad valorem funds without a tax increase. He said he hoped the Council could make a decision today to help to restore calm to the City. His first recommendation was that the City Council remove their approval from the Street Upgrade Policies and simply not pursue upgrading residential streets at this time, adding the community can revisit upgrading residential streets at a later time or perhaps never. Mayor Lambert said maintaining the streets at the current standard will continue. He said the City has more money to do this than the HSB POA because of the recently passed ¼% sales tax for street maintenance as well as the use of ad valorem funds. An excellent maintenance program can be accomplished within present

sources of funds. There will be no assessments or tax increase and the formal plan for doing this is near completion. Mayor Lambert said his second recommendation is that the Council proceeds with the study of Bay West Blvd. and separately a bridge across the low water crossing for possible upgrade in 2010 and an upgrade to HSB Blvd. in 2011. All of this would be funded with available cash and no tax increase.

Councilperson Phillip Lee said they had been working on the streets program for five years. He said the HSB POA did not have the funds to keep pace with the deterioration and the only way they could get the funds to do an upgrade was through an assessment of all the property owners in the POA with an equal amount for each lot. This required a vote by the POA membership. The proposition received 63% approval but needed 67% to pass. He said there were other issues that came up during this time. One was to transfer the streets to the City which was accomplished in April of 2009. The second was the community wanted the roads upgraded. The City came up with a plan and the underlying principle was that it would be fair and equitable to all property owners. Unfortunately, this has become quite contentious and the Council would like to get away from that. The Council has listened to all the arguments including for and against various types of financing and people who took exception to the engineering concept the Council approved. Mr. Lee said the economic situation has had quite an impact on everyone and placed a real burden on many adding, he feels that is the reason that there has been so much dissention regarding upgrading the residential streets and to continue would put an additional burden on owners. For that reason he feels the Council needs to shelve the upgrading of residential streets at this time.

Councilperson Spence stated he feels they need to find a way to cool things off in the city either by suspending or cancelling the residential street assessment policies. He added he does not agree with the conclusion of the committee that submitted the petition, but he must respect the 800 signatures there were on the petition and he does not want to see the City upset anymore. Mr. Spence said until today he has not seen anyone come to the Council to show support of the assessment versus the ad valorem solution the City has been proposing. He stated the reason he supports the assessment is because he does not want to see a large debt put on the city and he does not think it is fair to the other POA's for the HSB POA to charge the other POA's for their streets. He did applaud the committee for their interest in the City government adding he hoped it would continue until the November City elections. There has been no City election since the initial election after incorporation and he feels that shows a big lack of interest by residents in the City government. Mr. Spence added he agrees with Mayor Lambert's two recommendations.

Councilperson Haydon said she worked with Jim Babcock, Steve Spence and Phillip Lee at different times while on the board of the HSB POA and they had a very thorough knowledge of the roads. They saw engineering reports while at the POA and now at the City. She feels that people have chosen to ignore the fact that the City is in somewhat of a crisis on some of the thoroughfares and she would like to retain the option in the plan where if residents came to the City wanting to upgrade their streets using assessments they would be able to. She added that she recalled when the City was incorporated that people opposed incorporation because they would have bond issues come up that they did not want to pay. Ms. Haydon

complimented the Mayor on the incredible amount of unselfish work he has done for the City.

Councilperson Babcock stated Councilperson Spence and he had been working on the streets since 2003 first on the HSB POA Board and then with the City. He added he was not sure they had ever gotten a mandate on whether people wanted the streets done and if they had then how much they wanted to pay for them. Mr. Babcock said the Council had tried to move forward and put ideas on the table. He does believe that in the City's situation that HSB is one of the few cities that the assessment program is the appropriate program to go about upgrading the residential streets. He understands how it is hard to tell people at this time that if you get the street improved the marketability or market value will go up when there are currently no buyers and there is a serious timing problem right now. He said the City could use taxes in a way that accommodates everyone and makes it fair, including those that are not HSB POA residents, but then they are talking about a project that gets up into the \$30-\$50 million range. There have been recent newspaper articles about Round Rock and Marble Falls having to cut back services. He thinks this would not be a good time to engage in that type program until they see how the economy is going to recover. Mr. Babcock added one other factor he feels is important is the agreement with the Resort where in return for their contribution of \$1.25 million over the next 5 years the City would improve certain streets within the City. He would hate to give up that money and for that reason he would like to see the City at least continue on with upgrading Bay West Blvd, HSB Blvd and one or two other major arteries. He agreed with the others that this may be a good time to step back and let the economy improve.

Councilperson Haydon made a motion to formally remove the Council's approval of the Street Upgrade Policies. The motion was seconded by Councilperson Lee. The motion passed unanimously (4-0).

Mayor Lambert said the Council will continue with their evaluation of the upgrade of Bay West Blvd, the possible bridge and the upgrade of Horseshoe Bay Blvd. He added he feels Councilperson Robinson would be in agreement with the decision just made.

Mayor Lambert asked City Attorney Rex Baker to comment on the petition submitted to Teresa Moore, the City Secretary, on March 11 regarding street assessments. Mr. Baker said he was asked by the City to look at the petition as well as current law, the City charter and the Election Code. He said he had reviewed the petition and prepared a memo, a copy of which is attached and hereby made a part of these minutes. Mr. Baker advised the Council that he concluded this petition is neither a proper Initiative nor a proper Referendum since it does not offer a proposed ordinance or contest an existing ordinance; it is therefore invalid. He added that due to the fact the petition is invalid, there is no necessity for the City Secretary to certify the results of the petition.

The meeting was adjourned for a recess at 3:24 p.m.

The meeting reconvened at 3:33 p.m.

Mayor Lambert said Tony Plumlee has been working with the City on street matters and he has a presentation today on two of the matters the City is still considering. Mr. Plumlee said the first phase of this project is to look at the construction north of the low water crossing which is approximately 1.5 miles of Bay West Blvd. or three miles of street. Their plan is to repair the faulty paving, drainage and repair or replace broken curbs then go over that with 2" of hot mix for an estimated cost of \$500,000. He has also looked at safety issues in the past and at the City's request discussed some of these problems with Ron Mitchell from the HSB Resort. Mr. Mitchell was in agreement with the plans to alleviate these issues which included removing some of the rock to allow better sight along the Blvd., moving the median back at Blue Ground to give better access, look at striping the Blvd. at Purple Granite, eliminate the cross-over at Purple Granite and remove one layer of rock at Desert Rose. Mr. Plumlee said they perceive these safety issues will cost about \$50,000. Mayor Lambert said this was the third or fourth meeting where the City has discussed these safety issues and he feels it is time to authorize Mr. Plumlee to begin work on the engineering in order to get ready to put the project out for bid. Councilperson Babcock made a motion to begin work on the engineering. The motion was seconded by Councilperson Spence. The motion passed unanimously (4-0).

Mr. Plumlee said the last item is the low water crossing and the proposed bridge. He estimated that construction cost to be approximately \$600,000. He then presented a brief slideshow of the bridge design explaining it is feasible to bring the current cart path under the south arch of the proposed bridge in order to get to the other side of the street safely. Mayor Lambert said if the Council would like to continue consideration of this project he would like to get this information out to the citizens and get their comments and opinions on the estimated cost of the bridge being \$600,000 and explaining the bulk of the bridge will be pre-fabricated and set in place by cranes and the entrance off 2147 would probably be closed for 90 days. Mr. Dale Rodman spoke in opposition of the bridge stating the low water crossing was in place when everyone bought their property and if they do not want to go through there, they can go the alternate route off Hwy. 71. He feels if the aerators were installed and maintained properly there would be less of a problem with algae which is the reason for many of the residents' complaints. Mr. Rodman said crossing there during a flood is only a problem if you drive into the water and the Police Department has done a good job recently of putting up the barricades during flood events. He also suggested that the City require all large trucks enter Bay West via Hwy 71. Mr. Rodman asked that the Council put the bridge on the back burner at this time. The Council is asking for community input on this issue and the Mayor asked that the local newspapers publish a picture along with the cost and length of time the street will be closed.

8. Items to be removed from the Consent Agenda: There were no items removed from the Consent Agenda.
9. Consent Agenda Items:
 - a. Minutes of the February 16, 2010 Public Meeting and the February 17, 2010 Special Meeting
 - b. Proclamation for Horseshoe Bay Cleanup Day April 22, 2010

- c. General Fund Budget Amendment to Increase the Fire Department Revenue by \$62,000 and the Capital Outlay Expense by \$62,000 to Utilize Proceeds from the Sale of a 2003 Brush Truck to Purchase a Replacement Brush Truck.
- d. Amendments to Street Upgrade Policy
- e. City Attorney Ordinance

Councilperson Lee made a motion to approve the Consent Agenda. The motion was seconded by Councilperson Spence. The motion was approved unanimously (4-0).

10. Monthly Statistical Departmental Data Reports:

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

City Manager Stan Farmer informed the Council that the City has received the Gold Leadership Circle Award from the Texas Comptroller's Office for financial transparency online. This is provided via the City's website with a link from the Comptroller's website. This was a goal for both Administration Manager Toni Vanderburg and him for 2010. He then presented the award to Mayor Lambert. The Council congratulated the staff on obtaining this goal. Mr. Farmer thanked Councilperson Babcock for making him aware of this award.

Mr. Farmer stated that several months ago he had applied for a renewable energy grant through the State Energy Conservation Office (SECO) which was one of his personal goals under the energy reduction initiative budget carried over from last fiscal year. He has been notified by SECO that the City has been awarded our Distributive Renewable Energy and Related Technology grant to be funded with the American Recovery and Reinvestment Act of 2009 Stimulus Funds through SECO. This means the City will receive \$311,000 to be used for over 4,000 square feet of solar panels. At current electric rates this will generate a savings of \$6,000 per year. The project will be located at the Central Water Plant on the south side of the roof. He is working with Texas Solar Company of Austin on a formal press release. They hope to be one of the first projects actually implemented in order to be part of the SECO public relations campaign. The City's match on this will be \$62,000 and more than this amount was carried over from last year's ERI budget. The Council was pleased with this accomplishment.

11. Request for One Month Extension of Building Permit for 406 Lighthouse Drive Until April 20, 2010: Mayor Lambert said this building permit is expiring in about two weeks. The builder is making good progress, however they are not sure they will have the project completed by then and are asking for a one month extension. He also explained the permit has the option to assess a penalty for not completing within this time frame. The Council decided not to charge the penalty at this time but leave the option open if the project is not completed by April 20th. Councilperson Lee made a motion to approve extending the building permit one month. The motion was seconded by Councilperson Spence. The motion passed unanimously (4-0). The Council discussed the safety concerns presented when the street is narrow like Lighthouse Drive and there is overcrowding due to construction vehicles parked along the street. The Council had previously discussed

requiring off-site parking whenever this is the case and would like this to be on the April agenda.

12. Report Regarding Progress on Properties Located at 101 Jade, Lot No. W1077; 3206 Douglas Dr., Lot No. A3040; 3212 Douglas Dr., Lot No. A3037; 3305 Douglas Dr., Lot No. A1020; and 3327 Bay West Blvd., Lot No. A3024: Eric Winter Development Services Manager said Whitney Bank is now the owner of these properties. They have sent the City a time frame for work on these properties.
13. Policy Change to Clarify that Both Preliminary Replat Approval and Final Replat Approval can be Considered by the Council at the Same Council Meeting: Mayor Lambert explained this would allow a policy change to clarify that both the preliminary and the final approval of a plat change could be considered by the Council at the same Council meeting. Eric Winter Development Services Manager said the Council's policy of approving these at two different meetings was to give the public a chance to comment and to give the surveyors time to make corrections if needed. Mayor Lambert said 70-80% of the plats are non-controversial with no needed corrections and he believed these could easily be approved at one meeting. The consensus of the Council was to accept the clarification of the policy.
14. Conduct a Public Hearing and Possible Consideration of Both Preliminary and Final Plat Approval for:
 - a. Replat of Lots W2068 and W2069 of Horseshoe Bay West Plat No. W2.2, to be known as Horseshoe Bay West Plat No. W2.9, Horseshoe Bay, Llano County, Texas (511 & 512 Flintstone)
 - b. Replat of Lot 43032-B of Horseshoe Bay Plat No. 43.2 and Lot 43033-C of Horseshoe Bay Plat No. 43.33, to be known as Horseshoe Bay Plat No. 43.33A, Horseshoe Bay, Burnet County, Texas (904 Mountain Dew)

Mayor Lambert convened the Public Hearing at 4:31 p.m. He asked if there were any comments. There were none, and he adjourned the Public Hearing at 4:32 p.m. Councilperson Haydon made a motion to approve the plats both on a preliminary and final basis, with the Staff's recommendations. The motion was seconded by Councilperson Lee. The motion passed unanimously (4-0).

15. Conduct a Public Hearing and Consideration Regarding Ordinance to Extend the Moratorium on New Construction in Zone 13 Caprock and Tract BBB-2A of Zone 14 Horseshoe Bay Blvd. Corridor: Mayor Lambert convened the Public Hearing at 4:33 p.m. He asked if there were any comments. Mr. Ronald Yates representing the Terrafin Group requested that the Council consider extending the moratorium for two years instead of one. Mayor Lambert adjourned the Public Hearing at 4:34 p.m. Mr. Ron Mitchell said the Resort would also like to change their request for an extension to two years. Councilperson Lee made a motion to extend the Moratorium on both properties for two years. The motion was seconded by Councilperson Haydon. The motion passed unanimously (4-0).
16. Sign Article Variances from Sec. 3.06.015(i) of the City Code for a new 2' by 13' Wall Sign and from Sec. 3.06.015(b) of the City Code for 2 new 4'7" by 9'7" Awning Signs and 2 new

4'7" by 9'4" Awning Signs on the Tall Texan Building (7401 FM 2147): Mayor Lambert stated this is for a variance for new signs on the Tall Texan Building. These have been approved by the Architectural Committee and the City staff. Councilperson Haydon made a motion to approve the sign variances. The motion was seconded by Councilperson Babcock. The motion passed unanimously (4-0).

17. Amendment to Article 3.06 Signs of the City Code Section 3.06.016 to add New Subsection (12) Replacement of Sign Faces on Existing Sign Structures and New Occupant Sign Faces on Detached Permanent Commercial Project Signs to the Signs Exempt from Requiring a Sign Permit When Written Approval of the Appropriate Architectural Control Committee is Received: Mayor Lambert explained this amendment is in response to a suggestion by a citizen. When a business replaces a sign in an existing monument sign it is too large for compliance to the existing sign ordinance therefore it seems to be in the best interest of the City to approve this amendment. Councilperson Lee made a motion to approve the amendment. The motion was seconded by Councilperson Spence. The motion passed unanimously (4-0).
18. Continuation of Public Hearing Regarding Amendment to Chapter 14 Zoning of the City Code, Section 14.02.406 (i) to add Section (10), Development Standards for Manufactured Homes to be Placed on Lots in the M-1 Mobile Home Classification in Zone 4-B Horseshoe Bay South: Mayor Lambert convened the continuation of this Public Hearing at 4:37 p.m. He asked if there were any comments. There were none, and he continued the Public Hearing until the April 20, 2010 Council meeting.
19. Amendment to Article A3.00 Building and Development Fees, Sections (a) (1) (A), (a) (1) (B) and (a) (1) (C) of Appendix A: Fee Schedule of the City Code to Charge Building Permit Fees by the Square Foot-Discussion Only: City Manager Stan Farmer said from his meetings with builders and contractors in December there had been a change requested that charges for building permits for single-family residences be issued based on square footage instead of the flat fee the City charges now. Mr. Farmer said if the City charged \$0.35 per square foot the income to the City would be revenue neutral. He has a meeting next Tuesday with the contractors to get their input and will bring this item back to the Council next month. Councilperson Babcock said that it was determined when these fees were originally set that it took about the same amount of time to do plan reviews and inspections no matter what the size and that was the reason they set the fees as they did. He requested that the fees should be somewhat responsive to what the City's costs are in servicing the houses by possibly having a somewhat higher minimum charge for the small houses and maybe a ceiling on the large houses so it is more reactive to the actual time required by staff.
20. Ordinance Accepting Annexation Petition for 5.19 Acre Tract Part of Horseshoe Bay Resort Airport Property, Scheduling Two Public Hearings and Directing Preparation of an Annexation Service Plan: Mayor Lambert said when the surveyor was working on the City map it was discovered this parcel was not in the City limits. The Resort has requested the City annex this property. Councilperson Babcock made a motion to accept the petition for annexation and direct staff to schedule two public hearings for April 20, 2010 and prepare an

Annexation Service Plan for the April Council meeting. The motion was seconded by Councilperson Lee. The motion passed unanimously (4-0).

21. Consideration of Addition of One Accounting Clerk in the Administration Department and a General Fund Budget Amendment of \$32,600 from Contingency to the Administration Line Items for Wages and Salaries, Group Insurance, FICA, and Pension to Fund the Position: Mayor Lambert said the correct budget amendment is \$20,500. Councilperson Haydon made a motion to approve this item. The motion was seconded by Councilperson Spence. The motion passed unanimously (4-0).

22. Interim Agreement and Amendment to Development Agreement with SW Ownership, LLC for Skywater Over Horseshoe Bay:

23. Infrastructure Utility Permit for Skywater Pod 3:

Mayor Lambert said he would like to consider items #22 & #23 at the same time. He gave the Council an update stating he sent the basic terms for this interim agreement approved by the Council in February to the developer. The developer said he thought they were fine however he had to get approval from the owners. Mayor Lambert added he spoke to the developer prior to today's meeting and he assured the Mayor he did not think there were any problems with the substance of the agreement but did not have approval from the owners. He felt he could get that done within a week or so. Mayor Lambert asked that Council give him authority to sign the agreement if the modifications to it are acceptable to him as well as Councilperson Babcock and Monte Akers. Mayor Lambert asked that Council also give Stan Farmer authority to extend the utility permit until the next Council meeting. Councilperson Haydon made a motion to give Mayor Lambert authority to approve the interim agreement with minor modifications as long as all modifications are acceptable to Mayor Lambert, Councilperson Babcock and Monte Akers. The motion was seconded by Councilperson Spence. The motion passed unanimously (4-0).

Councilperson Babcock made a motion to give Stan Farmer authority to extend the Pod 3 utility permit until the Council meeting in April. The motion was seconded by Councilperson Lee. The motion passed unanimously (4-0).

24. Additional FY 2010 Utility Capital Project - Wastewater Effluent Pump Replacement: Utilities Director Jeff Koska said for the past four months he has been working with the Resort and an engineer to see if they can come up with a solution to increase the capacity to the golf course to dispose of effluent as the City had problems last year trying to get the pond levels down and keep them down throughout the summer. Staff has come to the conclusion that the best and least expensive way to accomplish this is to install pumps that can provide the pressure and volume needed. This would be a long-term solution and can be accomplished quickly in order to get the pumps in the ground prior to summer months for a cost of \$130,000. Councilperson Haydon made a motion to add an additional \$130,000 to the Utility Capital Project Budget. The motion was seconded by Councilperson Spence. The motion passed unanimously (4-0).

25. Council Comments for the March 16, 2010 Meeting: Mayor Lambert said he is willing to write the Council Comments due to Jeff Robinson's absence at today's meeting unless

