

## **ORDINANCE 2025-01**

### **AN ORDINANCE AMENDING TITLE 2 OF THE HORSESHOE BEND MUNICIPAL CODE PERTAINING TO SECTION 2.16.04 RECORDER/TREASURER**

**WHEREAS**, the city of Horseshoe Bend has the authority to regulate and enact laws concerning the City Code pursuant to Horseshoe Bend City Code Section 1.24.0, and

**WHEREAS**, the city code defines the duties of the office of the Recorder/Treasurer, and

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Horseshoe Bend, Arkansas,

**SECTION 1:** That section 2-16-04 of the Horseshoe Bend Municipal Code is hereby amended to read as follows:

**2.16.04 Duties of office** the duties of this office shall be such as are fixed by the laws of the Constitution and the laws of the state of Arkansas and the ordinances of the city. Further, the Recorder/Treasurer shall be responsible to perform and/or supervise the performance of the following job tasks:

- A. Serve as City Clerk and Custodian of Records.
- B. Collect and distribute incoming mail. Review and code all invoices and perform all actions required to pay the invoices.
- C. Prepare and assist with the payroll for all city departments as well as prepare and mail all monthly, quarterly and annual reports for payroll taxes.
- D. Assist in the reconciliation of the monthly bank statements and bank transfers. Control and account for cash on hand. Co-sign checks and serve as member of the Depository Board.
- E. Prepare monthly Treasurer's Reports and distribute to Mayor and City Council. Prepare Annual Treasurer's report and publish according to State Statute
- F. Serve as purchasing agent as directed by the City Council. Orders supplies for all city departments.
- G. Assist in the preparation of the city budget. Serve as Recorder and voting member of the Finance Committee. Prepare the agenda and minutes of the Finance meetings. Copy and distribute to the News Media.
- H. Prepare City Council agenda. Attend Council meetings and maintain an accurate record of those meetings. Prepare, copy, and distribute copies of the Minutes to the Council and the Media. Issue public notification of all official activities and meetings.
- I. Provide review and final approval of all city social media postings.
- J. Prepare ordinances, resolutions, and proclamations as directed so that they can be executed, recorded, archived, and distributed.

- K. Respond to requests for information from the public, other municipalities, state officials, and state and federal legislative offices.
- L. Maintain fiscal records and accounts. Maintain employee personnel files
- M. Process city employee and city official hospitalization, medical and worker's compensation.
- N. Prepare memos, correspondence and notices as required.
- O. Serve as Administrative Office Manager in the direct day to day supervision with authority to hire and fire of all city hall office support personnel. Office support personnel to include Deputy Clerk, Bookkeeper, Water Department Clerk, Receptionists, Assistants, Animal Control, Code Enforcement and any other staff not specifically designated otherwise by ordinance or resolution. Responsible for office support personnel employee evaluations.
- P. Develop job descriptions for office personnel, and review departmental job descriptions annually with the department heads for council approval.
- Q. Perform contract administration duties, assisting with bid openings and the awarding of contracts.
- R. Per State Statute, serve as Mayor Pro-temp during the absence of the Mayor. Serve as a notary of the public.
- S. Direct the issuance of various permits and licenses, including building permits, burning permits, sign permits, peddler licenses, business licenses, pet licenses and collect all appropriate fees.
- T. Process claims against the municipality, maintain files and log of claims, and coordinate claim response and handling with municipal claims administrators.
- U. Act as Treasurer for Parks and Recreation Commission/Department. If and/or when personnel are hired/appointed to perform this function, Recorder Treasurer will take on an advisory, oversight, audit and backup role. The Recorder Treasurer shall be a signatory on all bank accounts opened on behalf of Parks and Recreation.

This Ordinance shall supersede any prior Ordinances or Resolutions which are in conflict with this Ordinance.

**SECTION 2: Emergency Clause:** That this Ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist. Therefore, this ordinance shall be in full effect and force immediately after its passage.

Passed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Recorder/Treasurer



## *The City of Horseshoe Bend*

704 W. Commerce Street  
Horseshoe Bend, Arkansas 72512  
870-670-5113  
Fax 870-670-4358  
cityhall@cityofhorseshoebendar.gov

### **VETO 1-9-2025**

On January 3<sup>rd</sup>, Friday evening at 6 pm a special meeting was called by 3 council members: 1) Bryan Miller ward 1, 2) Luther Yancy ward one and 3) Travis Rains ward 3. The meeting was notarized by Julia Peckham on the same day. This is not the transparency and forward notice these aldermen ran on. Not only was the ordinance not published for the public to see but an inappropriate emergency cause was used to avoid the traditional 31 days to take effect. No emergency for health or welfare exists to the people was established yet to the emergency clause used.

Ordinance 2025-01 an ordinance amending title 2 of the Horseshoe Bend Municipal code pertaining to section 2.16.04 Recorder/Treasurer.

Mr. Miller stated that the power to hire and fire had been taken away from the position. This is not correct. In fact, the authority to hire or fire was never in the ordinance! I have enclosed the original ordinance Chapter 2.16 (attachment 1) and the actual ordinance modifications which were made, Ordinance no 2020-2 (attachment 2) they have been underlined in red. As I stated: we only removed the ability to vote in the finance committee meetings and supervise performance. However, the recorder did continue to supervise, and it is in provision P.

We only added with the mayor to the ordinance. No one single power was removed but only shared. I will make it available at my office and send copies to people requesting them.

The City Attorney in his email of 1-3-25 clearly stated. Copy of Brad's email (Attachment 3)



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With this veto you will have a chance to compare the actual changes made. Then you will know for yourself. No powers were taken away from the recorder/treasurer other than the finance committee vote. However, everyone knows by the definition of the job title, the recorder/treasurer was not elected to be the mayor of the city. In defending the integrity of the structure of the city, this ordinance is not in the best interest of the city.

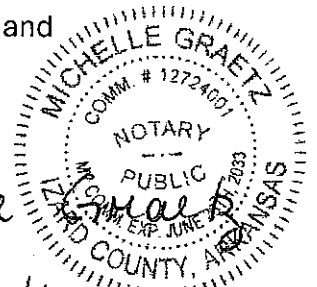
But it represents a more personal issue with individual council members not supported by the voters. As both the municipal league and the city attorney has stated this leaves the city open to lawsuits. The council is creating a dangerous situation by this ordinance for no valid reason.

In summary, This Veto of 1-9-2025 by the Mayor is based on the following:

1. You did not allow the people a chance to review the ordinance, breaking your campaign promises of transparency.
2. You used an emergency clause to prevent the people from having the required 31 days to agree or disagree with the ordinance.
3. You failed to establish an emergency of health or welfare that would hurt the people of the city.
4. You were misleading as to the actual authority the recorder/treasurer had, and the changes actually made.
5. You ignored the legal advice of the city attorney and the municipal league's head attorney and doing so made the city, the recorder/treasurer personally and yourselves personally vulnerable to lawsuits.

  
Duane C. DeLair  
Mayor

Michelle  
January 9th, 2025



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**Conversation with Attorney John Wilkerson of Ark. Municipal League regarding Ordinance being considered tonight**

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From Brad Sipe <bdsipe@gmail.com>

Date Fri 1/3/2025 3:04 PM

To vanderpas@netwurx.net <vanderpas@netwurx.net>; Mayor Horseshoe Bend <hsbmayor@cityofhorseshoebendar.gov>

 1 attachment (125 KB)

Whistleblower Act Poster.pdf;

Dear Mayor and Recorder/Treasurer:

I just had a conversation with Mr. Wilkerson at the Mayor's request. I appreciate Mr. Wilkerson's expertise and insight. In an effort to fully consider this issue, I want to pass along some of his concerns. This is not intended to be a complete summary of our conversation. This is written in contemplation that one or both of you will share this email with the council tonight.

First, if passed, this ordinance will open up the Recorder/Treasurer to being sued in his personal capacity and not just as a recorder/treasurer. I assured Mr. Wilkerson that I would make Mr. Vander Pas aware of this, which is one of the purposes of this email.

Second, if passed, this ordinance could expose the city council to liability because an argument can be made that the city council is directing who to hire and fire based on them vesting that authority in the recorder/treasurer.

Third, even though Horseshoe Bend is an At-Will Employer, Mr. Wilkerson expressed concern that a terminated employee might bring a lawsuit alleging that they were fired because they were a whistleblower. I have attached a WhistleBlower Act Poster provided by the Arkansas Legislative Audit.

Bradley D. Sipe  
Attorney at Law  
P.O. Box 235  
Melbourne, AR 72556  
(870) 368-3614



# EMPLOYEE RIGHTS

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## Under the Arkansas Whistle-Blower Act

**The Arkansas Whistle-Blower Act** prohibits a public employer from taking adverse action against a public employee who communicates in good faith to an appropriate authority the existence of waste of public funds, property, or manpower or a violation of law; participates, or gives information, in an investigation, hearing, court proceeding, legislative inquiry, or administrative review; or objects to carrying out a directive the public employee reasonably believes violates the law.

**A whistle-blower** is a person who witnesses or has evidence of waste or a violation of law while employed by a public employer and who communicates in good faith about the waste or violation to a supervisor, an agent of the public employer, or an appropriate authority (e.g., Office of Attorney General, Office of Auditor of State, Arkansas Ethics Commission, Legislative Joint Auditing Committee, Arkansas Legislative Audit, Prosecuting Attorney, etc.).

**If a public employer takes adverse action against a public employee,** that employee may have a claim for relief, as authorized by law. There are time limitations and other requirements applicable to any potential claim. A public employee reporting waste or violations may be eligible for a financial reward.



**To anonymously report suspicions of illegal activity by government officials, call the FBI hotline at 501.221.9100 (Press Option 8) OR 501.221.8200, or call the Arkansas State Police at 800.553.3820.**



*This notice summarizes certain portions of the Arkansas Whistle-Blower Act. For more information, consult Act 1523 of 1999, as amended, and Ark. Code Ann. §§ 21-1-601 to -610.*

Meeting Minutes  
City Council Meeting  
January 27, 2025

Mayor DeLair called the meeting to order at 6:00PM. Roll Call was taken.  
Present: Alderman Yancey, Alderman Miller, Alderwoman Hilliker, Alderman Booth, Alderman Rains, Alderman Vickers, Alderman Dawson and Alderman Draper.

Also present: Mayor DeLair, Recorder/Treasurer Bill Vander Pas, and City Attorney Brad Sipe.

All stood for the Pledge of Allegiance, and the Mayor performed the invocation prayer.

The meeting minutes from the City Council Meeting of December 16, 2024 were read. Motion to accept the minutes was made by Alderman Miller and seconded by Alderman Yancey. Minutes were approved on voice vote.

Motion to accept special meeting minutes as presented from December 14, 2024 was made by Alderman Miller and seconded by Alderman Draper. Minutes were approved on voice vote.

Motion to accept special meeting minutes as presented from December 28, 2024 was made by Alderman Miller and seconded by Alderman Dawson. Minutes were approved on voice vote.

Motion to accept Treasurer's Report was made by Alderman Miller and seconded by Alderman Yancey. The report was approved on voice vote.

Motion to accept Committee Reports was made by Alderman Miller and seconded by Alderman Draper. Reports were approved on voice vote.

There were no public comments or old business.

## New Business

The Mayor read his official veto of ordinance 25-01. There was much discussion regarding the ordinance and veto. The Mayor referenced opinions from John Wilkerson of the Municipal League. Alderman Miller referenced discussions he also had with Mr. Wilkerson and another Municipal League attorney. The Mayor brought up that the ordinance defining the duties of the Recorder-Treasurer never specifically mentioned hiring and firing authority previous to ordinance 25-01. Likewise, Mr. Sipe mentioned that there is no statute or ordinance specifically giving the Mayor hiring and firing authority, except for in the case of department heads.

Motion to override the veto was made by Alderman Miller and seconded by Alderman Draper. The veto was overridden by a vote of 7-1. Alderman Booth voted no.

Recorder Treasurer Vander Pas presented the amended budget. A motion to approve the amended budget was made by Alderman Miller and seconded by Alderman Dawson. Amended budget was approved by voice vote.

**MRID Transfer of Properties** – It was reported that the abstract company did not have the manpower to complete abstract search. This work will be ongoing. A final report from MRID is required before the city can accept control over the amenities, employees and assets. A suggestion was made to form a committee of Council members to determine what is required.

Alderman Miller commented on benefits of improvement districts. We have two street improvement districts, and they work just fine. He asserted that MRID should have reassessed when the initial assessment neared exhaustion. If that had happened, five years of divisiveness might have been avoided.

**Fee Ordinance** – The original version of the fee ordinance proposed in 2024 was read by the recorder treasurer. After some discussion, an emergency clause was added, then read. There were many objections from Council

members and audience. Major objections involved fairness of a cap on fees and the ability to shut the water off for delinquency. Motion was made by Alderman Dawson and seconded by Alderman Rains to table the ordinance until Finance Meeting. The motion passed on a verbal vote. The matter will be discussed at Finance meeting and a Special meeting will be held right after to approve the final version.

The city accounting software was briefly discussed, then tabled for discussion at the Finance meeting.

Resolution 25-04 on Authorized positions was read and discussed. A motion to table the resolution for further discussion at a later date was made by Alderman Dawson and seconded by Alderman Booth. The motion passed on a voice vote.

Alderman Vickers brought up the golf course fire. He strongly expressed his desire to find out how such a thing could happen.

Motion for adjournment was made by Alderman Dawson and seconded by Alderman Booth. Motion passed on voice vote.

Meeting adjourned at 8:27PM.

  
Mayor Duane DeLair

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Attested by: William Vander Pas  
Recorder-Treasurer