

FILED
IN MY OFFICE
OCT 14 2025

COUNTY & CIRCUIT CLERK
JOE COOPER
BY _____ D.C.

IN THE CIRCUIT COURT OF IZARD COUNTY, ARKANSAS
CIVIL DIVISION

CITY COUNCIL OF HORSESHOE BEND, ARKANSAS,
By and through its Members, PETITIONER

v. Case No. 33CV-25-155

DUANE DeLAIR, in his official capacity as
Mayor of the City of Horseshoe Bend, Arkansas, RESPONDENT

PETITION FOR WRIT OF MANDAMUS

Petitioner, City Council of Horseshoe Bend, Arkansas (“City Council” or “Petitioner”), by their attorneys, Bequette, Billingsley & Kees, P.A., for their Petition for Writ of Mandamus, state:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to Ark. Const. Art. 7, § 11 and Ark. Code Ann. §§ 16-115-101, *et seq.*, which authorizes the issuance of writs of mandamus to compel performance of ministerial duties.

2. Venue is proper in this Court because the City of Horseshoe Bend and the Respondent City Officials are located within IZARD County. The Respondent serves in his official capacity therein.

II. PARTIES

3. Petitioner is the duly elected City Council of Horseshoe Bend, Arkansas, a municipal governing body organized under Arkansas law.

4. Respondent is Duane DeLair, the duly elected Mayor of the City of Horseshoe Bend, sued in his official capacity only.

III. FACTUAL BACKGROUND

5. Under Arkansas law, ordinances duly adopted by the city council must be authenticated by the signature of the presiding officer and the clerk or recorder. Ark. Code Ann. § 14-55-205.

6. The Respondent, the Honorable Duane DeLair, is the Mayor of Horseshoe Bend.

7. The City of Horseshoe Bend has a population exceeding five hundred (500) persons and less than two thousand five hundred (2,500) persons, therefore it is a City of the Second Class. *See* Ark. Code Ann. § 14-37-105.

8. The Mayor is the presiding officer of the City of Horseshoe Bend for purposes of Ark. Code Ann. § 14-55-205. *See* Ark. Code Ann. § 14-44-107.

9. As Presiding Officer, the Mayor is required to sign all ordinances and resolutions. Ark. Code Ann. § 14-55-205.

10. The Mayor shall perform all duties required by the ordinances of the city pursuant to Ark. Code Ann. § 14-44-108.

11. The City Council has duly enacted certain ordinances, including ordinances that were passed over Respondent's veto by the requisite two-thirds vote. *See* Ark. Code Ann. § 14-44-107(b)(2)(B).

12. During a City Council Meeting held on September 22, 2025, the Mayor presented a veto to Ordinance 2025-20. A motion was made and seconded to override the veto, which passed unanimously by roll call vote. *See Exhibit 1*, September 22, 2025 City Council Meeting Minutes ("Ex. 1").

13. As of September 26, 2025, the following Ordinances have been passed by City Council at prior City Council meetings, but have not been authenticated by signature by the Mayor:

Ordinance	2025-01
Ordinance	2025-08
Ordinance	2025-11
Ordinance	2025-12
Ordinance	2025-13
Ordinance	2025-14
Ordinance	2025-15
Ordinance	2025-16
Ordinance	2025-18
Ordinance	2025-20

14. As of September 26, 2025, the following Resolutions have been passed by City Council at prior City Council meetings, but have not been authenticated by signature by the Mayor:

Resolution	2025-04
Resolution	2025-12
Resolution	2025-14
Resolution	2025-17
Resolution	2025-18
Resolution	2025-19
Resolution	2025-21
Resolution	2025-22

15. Once an ordinance is passed (and any veto overridden), it becomes valid law, in accordance with Ark. Code Ann. § 14-55-203. *See also* Ark. Code Ann. § 14-44-107(b)(2)(B).

16. Respondent has refused to sign certain ordinances and resolutions that were duly enacted, including ordinances passed over his veto.

17. In addition to Respondent's failure to sign enacted ordinances and resolutions, Respondent has failed to take required actions as Mayor to implement the ordinances or resolutions as required by Ark. Code Ann. § 14-44-108, such as signing signatory documents at financial institutions, signing contracts, letters, or other documents in accordance with their language.

18. Respondent's refusal to perform this statutory duty has created uncertainty in the public record and obstructed the Council's lawful governance.

IV. REQUEST FOR MANDAMUS

19. A writ of mandamus is appropriate to compel performance of an established, ministerial duty where the petitioner has a clear right to relief and no other adequate remedy at law. *Parker v. Crow*, 2010 Ark. 371, 368 S.W.3d 902 (Ark. 2010).

20. A writ of mandamus is an appropriate remedy when a public officer is called upon to do a plain and specific duty required by law and which requires no exercise of discretion or official judgment. *Lackey v. Bramblett*, 355 Ark. 414, 421, 139 S.W.3d 467, 471 (Ark. 2003); *Clowers v. Lassiter*, 363 Ark. 241, 213 S.W.3d 6 (Ark. 2005).

21. Ark. Code Ann. § 14-55-205 states that, “All bylaws or ordinances after their passage shall be recorded in a book kept for that purpose **and shall be authenticated by the signature of the presiding officer** of the governing body and the clerk or recorder.” (emphasis added).

22. As the Presiding Official of Horseshoe Bend, Respondent’s duty to sign ordinances duly enacted by the City Council is clearly established by Ark. Code Ann. § 14-55-205. *See Simpson v. Cavalry SPVI, LLC*, 2014 Ark. 363, 440 S.W.3d 335 (Ark. 2014) (if the language of a statute is clear and unambiguous and conveys a clear and definite meaning, it is unnecessary to resort to the rules of statutory interpretation); *see Miller v. Enders*, 2013 Ark. 23, at 5-6, 425 S.W.3d 723, 726-27 (Ark. 2013) (in considering the meaning of a statute, courts consider it just as it reads, giving the words their ordinary and usually accepted meaning).

23. Ark. Code Ann. § 14-44-108 states that, “The mayor of a city of the second class **shall perform all duties required by the ordinances of the city** and shall give bond and security in any amount to be determined and approved by the city council.” (emphasis added)

24. As the Presiding Official of Horseshoe Bend, Respondent’s duty to perform all duties required by the ordinances of the city is clearly established by Ark. Code Ann. § 14-44-108.

25. The statute contains the word “shall” has been interpreted by Arkansas courts to mean that the legislature intended mandatory compliance with the statute unless such an interpretation would lead to an absurd result. *See City of N. Little Rock v. Pfeifer*, 515 S.W.3d 593, 598 (Ark. 2017) (citing *Loyd v. Knight*, 288 Ark. 474, 706 S.W.2d 393 (1986)).

26. In accordance with Ark. Code Ann. § 14-55-203, the effective date for ordinances passed by the governing body depends on the nature of the ordinance, including whether they are general or permanent (§ 14-55-203(c)(1)(A) effective date published or posted), whether they include a fixed date for filing referendums (§ 14-55-203(c)(1)(B) effective day next following the 30-90 day deadline for filing referendums fixed in the ordinance), whether they include an emergency clause (§ 14-55-203(c)(1)(C) effective upon passage), and if none of the above, based upon date of passage or later specified date (§ 14-55-203(c)(2) if not of a general or permanent nature, effective on date of passage of the ordinance unless later effective date is provided in the ordinance).

27. Respondent’s failure to authenticate all ordinances or bylaws after their passage in accordance with their effective dates constitutes a failure to perform his official duty. *See, e.g., City of N. Little Rock v. Pfeifer*, 515 S.W.3d 593, 598 (Ark. 2017) (writ appropriate where officials did not fulfil mandatory duties pursuant to statute).

28. The Arkansas Supreme Court has ruled that similar failures to perform mandatory ministerial duties warrant the granting of a petition for writ of mandamus. *See City of N. Little Rock v. Pfeifer*, 515 S.W.3d 593, 598 (Ark. 2017) (upholding grant of petition for writ of mandamus on appeal, where city council failed to perform its mandatory duty to make findings required by § 14-88-207).

29. Petitioners have no adequate remedy at law other than mandamus to compel Respondent to fulfill this duty.

30. This Court has authority to command the Mayor to act by mandamus. Ark. Code Ann. § 14-88-101.

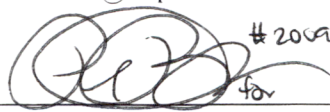
V. PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully pray that this Court:

- A. Issue a Writ of Mandamus directing Respondent, as Mayor of Horseshoe Bend, to sign and authenticate all ordinances and resolutions duly passed by the City Council, past, present, and future, as required by Ark. Code Ann. § 14-55-205;
- B. The Mayor must obey all properly passed orders, resolutions, and ordinances, past, present, and future. This includes, but is not limited to, all ordinances and resolutions in Exhibit 1.
- C. If actions are required by the Mayor in order to implement the order, ordinance, or resolution, such as signing signatory documents at financial institutions, signing contracts, letters, or other documents, the Mayor must act to accomplish the ordinance or resolution, as required by Ark. Code Ann. § 14-44-108.
- D. Award Petitioners their costs and all other relief to which they may be entitled.

Respectfully submitted,

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Attorneys for Petitioner

Meeting Minutes
City Council Meeting
September 22, 2025

Mayor DeLair called the meeting to order at 6:12PM. Roll Call was taken. All Council members were present. The Mayor, Recorder Treasurer and the city attorney were also present.

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

Judge Holly Meyer was invited by the mayor to speak. She is running for re-election for circuit judge. She explained her qualifications.

The meeting minutes from the City Council Meeting August 25, 2025 were read by the Recorder Treasurer. Motion to accept the minutes was made by Council Member Miller and seconded by Council Member Hilliker. Minutes were approved by voice vote.

The meeting minutes from the City Council Special Meeting August 14, 2025 were read by the Recorder Treasurer. Motion to accept the minutes was made by Council Member Rains and seconded by Council Member Draper. Minutes were approved by voice vote.

Treasurer's Report: The recorder-treasurer made comments about expenses versus revenues for August. There was an issue with entering credit card transactions before the end of the month which caused revenue to be low. A question was asked about Freed Up Funds, and the mayor answered that this was the label given to the bank account where the ARPA funds went when they were "freed up". A motion to accept the Treasurer's Report was made by Council Member Miller and seconded by Council Member Hilliker. The report was approved by voice vote.

EXHIBIT 1

Committee Reports: Motion to accept Committee Reports was made by Council Member Dawson and seconded by Council Member Miller. The reports were approved on voice vote.

Old Business: Mayor DeLair presented his veto of Ordinance 2025-20. He stated that the city had existed with 3 signatories for over 50 years. There was discussion about checks that the mayor has refused to pay. A motion was made by Council Member Miller and seconded by Council Member Vickers to override the veto. The motion passed unanimously by roll call vote.

Mayor DeLair presented his veto of the approved motion to hire Cody Kees to defend the city in lawsuit 33CV-25-117. A motion was made by Council Member Miller and seconded by Council Member Rains to override the veto. The motion passed by roll call vote 8-0.

Ordinance 2025-19 was read for the second time. This ordinance sets a policy for retention of public meeting recordings.

New Business: Resolution 2025-30 was read by the recorder treasurer. This resolution gives council approval to apply for a grant to improve the Community Building. A motion was made by Council Member Dawson and seconded by Council Member Hilliker to approve the resolution. The motion passed by voice vote.

Resolution 2025-31 was read by the recorder treasurer. This resolution authorizes the mayor to enter into an agreement with White River Planning and Development to provide administrative services for the grant. A motion was made by Council Member Dawson and seconded by Council Member Hilliker to approve the resolution. The motion passed by voice vote.

The recorder treasurer explained that in order to proceed with the grant application, an asbestos study needs to be done on the building. The cost is \$500 plus \$20 a test. A motion was made by Council Member Miller and seconded by Council Member Vickers to approve this study at a price not to

exceed \$1000 from Parks and Recreation funds. The motion passed by voice vote.

Resolution 2025-32 was read by the recorder treasurer. This resolution allows the city to pursue a 75/25 grant from the Arkansas Division of Emergency Management to have a back-up generator installed at the Community Building. This would allow a potential safe place for residents to gather in an emergency. A motion was made by Council Member Dawson and seconded by Council Member Hilliker to approve the resolution. The motion passed by voice vote.

Public Comments: Tommy Billingsly announced that he is forced to cancel the tournament he was working on.

Uriah Mead talked about the “Boy Scout” building and the need to finish the renovation project started last year. He had solicited bids from contractors and delivered those to the mayor.

Carol Spencer asked Council Member Miller how long he knew about the grant and asked if a survey had been done. There was no survey, and Mr. Miller knew about the grant for a few weeks.

Council Member Miller outlined a long list of issues with the actions and inactions of the mayor. He made a motion for a vote of No Confidence against the mayor. There was some heated discussion. The motion was seconded by Council Member Draper. The motion passed by roll call vote 8-0.

There was a brief discussion about a complaint that was given to all council members. It appears to be a Facebook argument between residents.

Jeff Rains took offense to the mayor’s assertion that it is a violation of health codes to have dogs at a beach. There was a brief argument.

Dan Robinson stated that we shouldn't accept bids that were obtained privately and without a proper specification, referring to the bids delivered by Uriah Mead. A specification will be developed by Dan and an ad will be put in the paper for next week.

A motion to adjourn was made by Council Member Hilliker, seconded by Council Member Dawson. Motion passed by voice vote.

Meeting adjourned at 7:32 PM.

Faithfully Submitted by:

William Vander Pas
Recorder-Treasurer