



On August 8th, Mr. Glen Zoerner, representing the petitioners, presented the City Council with a petition requesting an election to decide once again on the incorporation of Double Horn. After consulting with our attorneys, it was clear legally this petition could be denied; however, I did not believe denying the petition would be in the best interests of this community, this city. Therefore, I executed an order calling for a special election to be held on November 5, 2019.

Mr. Zoerner made several statements that could not be addressed at the time as the actions of the City Council are governed by the Texas Open Meetings Act. Specifically, to provide for total transparency and opportunity for public input, the Texas Open Meetings Act requires that only topics listed on the published agenda may be discussed by the Council.

Therefore, today's agenda includes this important topic allowing the City Council an opportunity to respond to each statement with facts. Given the pending election, and based on state law, the City Council and Mayor may not advocate for the city, however, statements of fact are allowed.

Be it a local election or national election, it's important all citizens base their voting decisions on facts.

1) *Mr. Zoerner stated: "we've discovered that incorporation couldn't stop nor can exert much, if any, control over the quarry;"*

Council Response:

- An HOA and/or citizen groups have **no ability** to manage or control land use in unincorporated areas that are outside the subdivision. Despite numerous rally's and citizen action groups, the recent industrial development of unincorporated land along Hwy 71 illustrates this reality.
- The Double Horn Improvement Association has **no ability** to manage the development of the commercial properties at Hwy 71 & Vista View.
- The City of Double Horn **has the ability AND has acted, to exert some reasonable control** over the development of land including commercial/industrial operations within its city limits through zoning and other ordinances adopted or in process to protect property values, quality of life and safety. Examples of Action: **Ordinance 2019-ORD013 Nuisance Ordinance** (today)
Ordinance 2019-ORD006 Comprehensive Plan, - a required first step to establish zoning regulations.
- The facts (ability statements) listed above were documented and discussed prior to the incorporation election.

Reference: You Have Questions, We Have Answers (Incorporation) SEPATX, distributed 11/26/18.

2) *Mr. Zoerner stated: "we've discovered that general law cities don't have zoning power outside of the city limits;"*

Council Response:

- While Zoning Regulations are not applicable outside of the city limits, there are several other regulations the city may adopt within the extraterritorial jurisdiction (ETJ) of the City, including but not limited to:
 - authorizing cities to extend their subdivision regulations to the ETJ - Local Government Code § 212.003;
 - authorizing a city to require development plats in the ETJ - Local Government Code § 212.044;



- authorizing cities to require the relocation, reconstruction, or removal of signs within the ETJ - Local Government Code § 216.003;
- authorizing cities to extend their outdoor sign ordinance within the ETJ - Local Government Code § 216.902;
- authorizing municipal annexation - Local Government Code Chapter 43;
- authorizing cities to extend the drainage utility system service area into the ETJ - Local Government Code § 552.044(8); and
- authorizing cities to include areas of the ETJ in a pollution control and abatement program - Water Code § 26.177

3) *Mr. Zoerner stated: "we've discovered that it will be essentially impossible to grow the size of the city through annexation;"*

Council Response:

- Through mutual consent of the property owners, the original city boundaries were drawn to include a portion of a historic ranch on our City's northern border.
Reference: Ordinance: 2019-ORD001 City Map, Filed with Burnet County
- Once Spicewood Crushed Stone begins operations, the City of Double Horn will be able to transition to a Type A General Law City with its maximum area increased from two to four square miles.
- Therefore, and again through mutual consent, the City of Double Horn will have the ability to annex land thereby extending its extraterritorial jurisdiction. As the City annexes property, the ETJ extends out ½ mile at the city's current population level.
- The City can grow in size not just on request of a landowner, but also under the following sections, as applicable:
 - (1) Section 43.0115 (Enclave);
 - (2) Section 43.0116 (Industrial District);
 - (3) Section 43.012 (Area Owned by Type-A Municipality);
 - (4) Section 43.013 (Navigable Stream);
 - (5) Section 43.0751(h) (Strategic Partnership);
 - (6) Section 43.101 (Municipally Owned Reservoir);
 - (7) Section 43.102 (Municipally Owned Airport);
 - (8) Section 43.1055 (Road and Right-of-Way); and
 - (9) Section 43.0681 (Area with Population Less than 200 by Petition).

4) *Mr. Zoerner stated: "we're discovering that a substantial, and growing, portion of the city budget is allocated for legal expenses;"*

Council Response:

- The City of Double Horn is a new city, therefore, by law the City is required to establish specific foundational policy and procedures many of which are documented in a series of Resolutions and Ordinances. To avoid costly mistakes, the City Council has worked very closely with the City Attorney, an attorney very experienced in municipal law.
- To reduce some of the legal expense, the Council has leveraged resources at the Texas Municipal League for more basic questions.



- The City's Legal expenses are expected to decrease in the coming years as the City Council and City Secretary gain experience and the foundation of our city government is established.
- Litigation expenses due to the State of Texas vs. City of Double Horn lawsuit could not be foreseen; the legal briefs prepared by our attorney's clearly and concisely laying out the facts confirming our position: **The City of Double Horn met the incorporation requirements.**

Reference: 8/5/19 Double Horn Appellees' Brief, 8/5/19 TML-IMLA Double Horn Amicus Brief, 4/3/19 Legal Response in Opposition of States Position, which can be found on the City of Double Horn's website: <https://www.doublehorntx.org> under the City News & Announcements tab.

5) *Mr. Zoerner stated: "we're discovering that the actual tax rate we pay will be significantly higher than the 7.5 cents per hundred originally proposed by the community leaders;"*

Council Response:

- The tax rate of 7.5 cents per hundred discussed prior to incorporation was calculated before the City knew the Attorney General was going to file a lawsuit. Additionally, the Council has both cut expenses and add expenses based on a better understanding of our duties and responsibilities.
- The City of Double Horn has adopted a tax rate of 9.5 cents per hundred. To put this in perspective the increase of 2.0 cents per hundred represents an **\$8.33/month increase** in taxes assuming an appraised value of \$500,000.

Reference: FY2019-20 Tax Rate Scenario Data Sheet

- Any increase to the 9.5 cent per hundred tax rate is subject to a 3.5% Revenue Cap; if exceeded, the law allows the citizens to petition for an election to approve the tax rate. The petition must be signed by at least **3%** of registered voters.
Reference: Senate Bill 2
- In the future, while a transition from a Type B General Law city to a Type A General Law city does increase the maximum permissible property tax rate from 25 cents per hundred to \$1.50 per hundred, the transition to a Type A is NOT an exception to the 3.5% Revenue Cap. The city would still be subject to a petition for a voter approved rate increase.
Reference: Mr. Bill Longley, Legislative Counsel, Texas Municipal League
- There are many variables that must be evaluated when establishing the "right" tax rate. It is a difficult yet critical responsibility of the City Council.

6) *Mr. Zoerner stated: "we've discovered that, while the steering committee promised to not "change the freedoms we enjoy as members of the Double Horn Creek community", the city council, on March 30, betrayed that promise when it passed that ridiculous Resolution 004."*

Council Response:

- The City Council was elected to protect the citizen's property rights and our quality of life with the fundamental understanding the city government would not change the freedoms we enjoy as members of the Double Horn Creek community. A review of City Council meeting minutes, documenting all decisions of the Council, proves the City Council HAS NOT WAVED from that position. Specifically, to put a rumor to rest, there has been no Resolution or Ordinance, or even a vote to consider restricting the use of ATV's or golf carts on our streets!

Reference: City of Double Horn's website, Agendas & Minutes tab at <https://www.doublehorntx.org>

- A Resolution is not law, a Resolution indicates "a position or policy of a city".
Reference: 2017 Handbook for Mayors and Councilmembers (TML)



- Resolution 2019-RES004 (**Meeting Handout**) has specific language that indicates the City of Double Horn's **position is to comply with state law** "to provide municipal services to the citizens of Double Horn" (paragraph 3) ... "as needed" (paragraph 5). Also please read Section 1 "The City Council **may consider** adoption", read Section 2 "The City Council **may consider** acquisition", read Section 3 "The City Council **may consider** undertaking"
- Resolution 2019-RES004 represents a list of services, including regulations (zoning), that **ANY city may consider** including a city cemetery. Given our small city's goals and approach to city government, some standard services (city cemetery) will **never be implemented** however, new ideas, low or no cost services, were also included for future discussion. Examples: Air & Seismic Monitors – services which have been recently delivered or are in process.
- Resolution 2019-RES004 was discussed and adopted at the March 30, 2019 Special Meeting of the City Council held at the Double Horn Pavilion. During the public discussion the Mayor explained the intent and emphasized the language of the Resolution as stated above. The Council vote was unanimous.

Reference: March 30 Special Meeting of the City Council which can be found on the city's website: <https://www.doublehorn.tx.org> under the City Documents, Agendas & Minutes Tab.

7) *Mr. Zoerner stated: "Other than providing a platform for a few busybodies to boss us around,*

Council Response:

- Frank conversations and constructive criticism are an important part of the democratic process and as such is both protected by law and fully embraced by this City Council. However, resorting to name calling is not welcomed or allowed. The members of the City Council are neighbors and volunteers working on the citizens behalf to protect and improve the City of Double Horn. Proper decorum is expected.

Reference: Ordinance 2019-ORD002 City Council Rules of Procedure, Section 3.3 Preservation of Order and Section 5.3 Remarks to be Germane.

8) *Mr. Zoerner stated: "the city offers a lousy value to the taxpayers. Double Horn Creek is a neighborhood, not a city."*

Council Response:

- Neighborhood or City, the lawsuit brought by the Texas Attorney General, after notification from the attorney's representing Spicewood Crushed Stone/Dalrymple Construction, took the same position. However, the Honorable Judge Stubbs dismissed this case. Judge Stubbs stated: "I'm going to find there is not a probability of (the state) winning this lawsuit."

Reference: The Highlander, Friday April 5, 2019

- Value, each citizen must look at the **facts** and make their own determination.

9) *Mr. Zoerner stated: "I challenge each of you to **honestly** articulate one benefit that the city provides to the community."*

Council Response: (8 Benefits)

- 1) **Control Land Use** – The City has already taken an important step towards this goal by adopting a Comprehensive Plan which forms the basis of future Zoning Ordinances. Zoning Ordinances, that carry the weight of law, allow the city to regulate "the height, number of stories, and size of buildings and



other structures; the location and use of buildings, other structures, and land for business, industrial, residential or other purposes” (partial list)

Reference: Zindia T. Thomas, TML Assistant General Counsel, Texas Town & City

- 2) **Protect Quality of Life & Property Values** – by passing Ordinances that carry the weight of law and which may levy fines to ensure compliance. Today, the Council considers a new ordinance that illustrates this value. A Nuisance Ordinance that limits noise, construction activities, blasting and dangerous/highly flammable materials.
- 3) **Provides Additional Services** – in addition to passing numerous required and critical resolutions and ordinances, the City has provided low cost or no-cost services that are targeted to enhance the quality of life of our citizens. Over the last 7 months, the following services have been provided at NO COST to the citizens of Double Horn:
 - a. Communication Link – Double Horn website
 - b. Air Quality Monitors
 - c. Seismic Monitor and a
 - d. Little Library – an internationally recognized library system for small communities

Reference: City of Double Horn website: <https://www.doublehorntx.org>

- 4) **Mayoral Powers** including the Mayor’s authority to:
 - a. Declare a Local State of Disaster to request aid and support from the State
 - b. Request state and federal recovery assistance
 - c. Order an Evacuation during a Disaster and Limit Egress*Reference: Texas Government Code Chapter 418, Texas Administrative Code, Title 37, Part1, Chapter 7*
- 5) **A Seat at the Table** – A city has stature - a **stronger, more credible voice** than a citizen group or HOA Board. A city and/or Mayor has the ability to lobby for the citizens, to drive action and support across a broad spectrum including: Media, County & State Officials, Texas Municipal League, TXDOT, Commercial & Industrial leaders.
- 6) **Apply for Grants** - A City has the ability to apply for **grants** to enhance the community while defraying all or a portion of the direct expense.
- 7) **Access to information and training** - from organizations such as Texas DPS, FEMA and TML; information and training that supports emergency preparedness and municipal collaboration.
Reference: 7/13/19 Emergency Management Public Officials Course (G200), Instructor: Mr. Jack Doebbler, District Coordinator, 6B Texas Division of Emergency Management.
- 8) **Six Dedicated Resources** - volunteering (**no cost**) their time and skills which collectively represent over 150 of years’ experience in leadership, logistics, strategy, collaboration, team building, construction, insurance, appraisal, finance & accounting, project management and more - all serving this community with a single goal; improving and protecting the citizens of Double Horn. In addition, there are many other responsible, committed citizens serving on volunteer committees working toward the same goal.



10) Mr. Zoerner wrote: “the first regular election for the positions of mayor and five city council members will be held on November 5, 2019. This opened the window for a one-time opportunity for the voters to order an election for the abolition of the city.”

Council Response:

- It is incorrect to state the election to abolish the city is a one-time opportunity. Assuming petition requirements are met, “the mayor shall order the election to be held on the same date as the next general election at which the office of mayor is to be filled”. Therefore, for the City of Double Horn, this option exists every 2 years.

Reference: Local Government Code: 62.002 (a), (b)

Council Statement:

Less than a year ago, December 6, 2018, the citizens of Double Horn voted to incorporate as a city to protect our property rights and quality of life in the face of rapid industrial growth throughout the Hill Country. Residential growth, therefore, commercial and industrial growth is expected to continue. Over the next 50 years the population of Texas is expected to double. Air, water and traffic are growing concerns.

Reference: Hill Country Alliance (2014)

On November 5, 2019, the citizens will vote “For” or “Against” the abolishment of the City of Double Horn. We encourage all citizens to familiarize themselves with the facts, participate in Council Meetings and to ask questions of their elected officials. Be a well-informed voter.

Consider the Story of Bee Cave – Past and Present:

Bee Cave, “an area where people could live without influence of “big city” government has been the area’s “calling card” for over 140 years”

- 1850’s Dietrich Bohls family settles in what becomes known as Bee Cave.
- **1987 Bee Cave is Incorporated**
- 1991 Population 241
- 2000 Population 656
- 2010 Population 3926
- 2018 Population 6765 (Estimate)

Reference: City of Bee Cave website